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JUN 20 2006

HELLER EHRMAN LLP
275 MIDDLEFIELD ROAD
MENLO PARK CA 94025-3506

In re Application of	:
Baker et al	:
Serial No.: 10/140,865	: DECISION ON PETITION
Filed: May 7, 2002	:
Attorney Docket No.: P3330R1C190	:

This letter is in response to the Petition under 37 C.F.R. 1.181, filed March 29, 2006 requesting (1) that the Examiner's Answer be designated as containing a new ground of rejection; (2) that the examiner provide a corrected Examiner's Answer which identifies the rejection as a new ground of rejection; and (3) that prosecution be reopened because of the new ground of rejection.

BACKGROUND

On December 13, 2004, the examiner mailed a non-Final Office action to applicants, setting a three month shortened statutory period for reply. In the Office action, claims 72-84 were rejected under 35 U.S.C. 101 as lacking substantial credible utility and written description, and were rejected under 35 U.S.C. 112, first paragraph, for the same reasons. Claims 72-84 were also rejected under 35 U.S.C. 112, second paragraph for being indefinite.

Applicants filed a reply on March 7, 2005, amending claims 72-79 and canceling claims 80 and 81, and replying to the rejections by relying on arguments involving the concept of "universal control" and including affidavits by Dr. Smith and Dr. Polakis also utilizing "universal control".

The examiner mailed a Final Office action to applicants on April 28, 2005, maintaining the rejections under 35 U.S.C. 101 and 112, first paragraph for lack of utility and for lack of written description. The examiner dismissed and did not consider the Smith affidavit as it was copied from another application. The examiner concludes that the declaration of Dr. Polakis is insufficient to overcome the rejection of the instant claims because it is limited to a discussion of analysis of the correlation between mRNA and polypeptide levels, and provides no explanation on how to extrapolate the data obtained in DNA microarray to the immediate use of the instant

polypeptides as cancer markers, as asserted by applicants. The examiner also commented and responded to arguments regarding "universal normal control" in the Office action.

Applicants filed an amendment after final rejection on June 21, 2005, however this amendment did not contain any substantive argument regarding "universal control" other than to mention the Smith affidavit and that it should be considered. In an Advisory Action mailed July 7, 2005, the examiner indicated consideration of applicants' arguments but indicted that they were unpersuasive.

Applicants filed a Notice of Appeal on September 28, 2005, and a proper Appeal Brief on November 29, 2005. The Appeal Brief presents arguments with respect to "universal normal control" in the Brief.

The examiner mailed an Examiner's Answer to applicants on January 31, 2006. The examiner specifically sets forth arguments relating to "universal control" or "universal normal control" in the Answer which are similar to arguments set forth in the Final Office action. The only difference between them being that a more explicit response to applicants' arguments of the same term in the Brief is set forth.

Applicants filed this petition on March 29, 2006, asking that the Examiner's Answer be designated as having a new ground of rejection therein. Applicants concurrently filed a Reply Brief directed to the alleged new ground of rejection.

DISCUSSION

Applicants argue that the examiner has set forth a new ground of rejection in the Examiner's Answer specifically directed to the term "universal control" in relationship to Example 30 of the specification. As noted in the review of the Office actions and applicants' replies above, the term "universal control" or "universal normal control" (which are considered to be essentially the same) have been present in the examiner's arguments supporting the rejection under 35 U.S.C. 101 and 112, second paragraph, in all Office actions.

Applicants have also used and argued the same terms in each reply. Applicants have also supplied affidavits in support of their arguments. The examiner did not consider the Smith affidavit as it was copied from another application and indicated the Polakis affidavit as being unpersuasive. Thus, applicants' argument that the Examiner's Answer contains a new ground of rejection is not found persuasive.

DECISION

For the above reasons, the petition under 37 C.F.R. 1.181 requesting that the Examiner's Answer be designated as containing a new ground of rejection is **DENIED**.

This application will be forwarded to the examiner for consideration of the Reply Brief filed on March 29, 2006.

There is no fee for this petition and the petition fee paid of $130.00 will be credited to applicants' Deposit Account No. 08-1641, as directed.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the mailing date and be directed to Director, TC 1600, at the mailing address listed above.

Should there by any questions regarding this decision, please contact Special Program Examiner, Marianne C. Seidel 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.

John L. LeGuyader
Director, Technology Center 1600

Back To Home Page

PATENT APPLICATION

10140865

PATENT APPLICATION

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

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APR 0 4 2005

OFFICE OF PETITIONS

In re Application of	:
Erik Hojsted et al	:
Application No. 10/140,885	: DECISION ON PETITION
Filed: May 9, 2002	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 2207/1290201	:

This is a decision on the petition filed December 20, 2004, which is being treated under 37 CFR 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of a prior-filed provisional Application No. 60/366,245, filed March 22, 2002, as set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

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

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

The instant petition does not comply with item (3) above.

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

As authorized, the $1,370 fee required by 37 CFR 1.78(a)(6)(ii) will be charged to petitioner's Deposit Account No. 11-0600.

Any questions concerning this matter may be directed to Wan Laymon at (571) 272-3220.

Frances Hicks

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

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SUITE 700
WASHINGTON, DC 20005

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OFFICE OF PETITIONS

In re Application of
Erik Hojsted
Application No. 10/140,885
Filed: May 9, 2002
Attorney Docket No. 2207/1290201

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

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed May 10, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**..

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

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

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the 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 previously submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the 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 applicants are entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to Wan Laymon at (571) 272-3220. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 2193 for appropriate action on the amendment submitted December 20, 2004 and resubmitted May 10, 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. 60/366,245.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Paper No. 4

KENYON & KENYON
ONE BROADWAY
NEW YORK, NY 10004

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AUG 2 3 2002

OFFICE OF PETITIONS

In re Application of	:	
Lothar Diehl	:	
Application No. 10/140,903	:	DECISION ON PETITION
Filed: May 7, 2002	:	
Attorney Docket No. 10191/2444	:	

This is a decision on petition under 37 CFR 1.10(d), filed August 5, 2002, requesting that the above-identified application be accorded a filing date of May 7, 2002, rather than the presently accorded filing date of May 6, 2002.

Applicant requests the later filing date on the basis that the application was purportedly deposited in "Express Mail" service with the U.S. Postal Service on May 7, 2002, pursuant to the requirements of 37 CFR 1.10. However, the Express Mail label No. EL828245172US shows a "date-in" of May 6, 2002. Applicant alleges that the date of mailing shown by the Express Mail receipt is a U.S. Postal Service (USPS) error and the correct date of mailing is May 7, 2002. It is noted that the same Express Mail label number appears on the original transmittal letter found in the present application.

A search of the USPS Track and Confirm record confirms that the package is question was accepted at 6:18pm at the USPS in New York, NY on May 7, 2002. Accordingly, the petition is granted.

No petition fee is required and none has been charged.

The application is being returned to the Office of Initial Patent Examination to await applicant's response to the Notice mailed June 17, 2002 and for correction of the filing date to May 7, 2002.

Telephone inquires specific to this matter should be directed to Wan Laymon at (703) 306-5685.

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

Enclosure: Express Mail Track/Confirm Sheet

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04-12-08

TO SPE OF : ART UNIT 1646

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/140922** Patent No.: **7309765**

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

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

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

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

SPE 1646 **Art Unit**

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Arnold & Porter LLP (24126)
Attn: IP Docketing Dept.
555 Twelfth Street, N.W.
Washington DC 20004-1206

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FEB 24 2010

OFFICE OF PETITIONS

In re Patent No. 7,495,082	:	DECISION ON REQUEST FOR
Goddard et al.	:	RECONSIDERATION OF
Issue Date: February 24, 2009	:	PATENT TERM ADJUSTMENT AND
Application No. 10/140,927	:	NOTICE OF INTENT TO ISSUE
Filed: May 7, 2002	:	CERTIFICATE OF CORRECTION
Atty Docket No. P3330R1C180	:	

This is a decision on the petition filed on April 17, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent[1] be corrected to indicate that the term of the above-identified patent is extended or adjusted by nine hundred seven (907) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent** that the term of the above-identified patent is extended or adjusted by nine hundred six (906) days.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on May 8, 2005, and ends on May 22, 2006, the day before the RCE was filed, and is 380 (not 381) days. See 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 906, not 907 days.

[1] Patentee indicated Patent No. 7,495,085 in the header of the present petition. However, after reviewing all of the other identifying information provided by patentee, it has been determined that patentee intended to file the present petition in Patent No. 7,495,082.

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

The required fee of $200.00 pursuant to 37 CFR 1.18(e) will be charged to the Deposit Account as authorized.

This matter is being referred to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **nine hundred six (906) days.**

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,495,082 B2

DATED : Feb. 24, 2009 **DRAFT**

INVENTOR(S) : Goddard 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 536 days

Delete the phrase "by 536 days" and insert – by 906 days--

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

APR 14 2003

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APR 14 2003

OFFICE OF THE DIRECTOR
TC 3600

Thomas R. Vigil
Welsh & Katz, Ltd.
22nd Floor
120 South Riverside Plaza
Chicago, IL 60606

Paper No. 7

In re application of	:	DECISION ON PETITION
John Robert Borrett	:	TO MAKE SPECIAL
Application No. 10/140,957	:	(ACCELERATED EXAMINATION)
Filed: May 8, 2002	:	
For: WATERJET CONTROL SYSTEM	:	

This is in response to the petition filed on January 13, 2003 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.

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

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

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

SUMMARY: Petition to Make Special **GRANTED**.

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

KJD/tpl: 4/10/03

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JORDAN AND HAMBURG LLP
122 EAST 42ND STREET
SUITE 4000
NEW YORK NY 10168

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Masaki MIURA :
Application No. 10/140,960 :
Filed: May 7, 2002 :
Attorney Docket No. F-7359 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 27, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit corrected drawings in a timely manner in reply to the Notice of Allowability mailed December 17, 2004, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on March 18, 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 corrected drawings; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the corrected drawing 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 the Office of Patent Publication.

Frances Hicks for
Brian Hearn
Petitions Examiner
Office of Petitions

Attachment: Notice of Draftsperson's Patent Drawing Review, Form PTO-948

UNITED STATES PATENT AND TRADEMARK OFFICE

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Michael J. Gratz
Boyle, Fredrickson, Newholm,
Stein & Gratz, SC
250 Plaza, Suite 1030
250 East Wisconsin Avenue
Milwaukee, WI 53202

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OCT 16 2006

OFFICE OF PETITIONS

In re Application of	:	
James W. GEE, Jr., et al.	:	
Application No. 10/140,971	:	DECISION ON PETITION
Filed: May 8, 2002	:	TO WITHDRAW
Attorney Docket No. 509.001	:	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 May 4, 2006.

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

A review of the file record indicates that the power of attorney to Michael J. Gratz has been revoked by the applicant of the patent application on August 7, 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 Monica A. Graves at 571-272-7253.

Amelia Au
Petitions Examiner
Office of Petitions

cc: Owen J. Bates
1143 Beaconfield Road
San Jose, CA 95121

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : **October 18,2007**

TO SPE OF : ART UNIT **1643**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/140,978** Patent No.: **7220412 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: _____

LARRY HELMS — **SPE**

1643 — **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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July 26, 2004

DR. MARK FRIEDMAN LTD.
C/o Bill Polkinghom
Discovery Dispatch
9003 Florin Way
Upper Marlboro, MD 20772

In re Application of	:	
Yosi Shani ET AL.	:	
Application No. 10/140,987	:	DECISION ON PETITION
Filed: May 9, 2002	:	
Attorney Docket No. 1296/52	:	

This is a decision on the petition under 37 CFR 1.84 filed February 4 2004, to request the acceptance of black and white photographs.

The petition under 37 CFR 1.84 is **GRANTED**.

Petitioner included with the mailing of the instant petition, three (3) sets of sized A4 black and white photographs, an amendment to the specification, and an authorization to charge the requisite fee under 37 CFR 1.17 in the amount of $130.00 as per 37 CFR 1.84 (2).

Deposit Account 06-2140 has been charged $130.00.

07/27/2004 OJOHNS01 00000005 062140 10140987
01 FC:1460 130.00 DA

Gregory J. Toatley, Jr.
Supervisory Patent Examiner
Art Unit 2877

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080414

DATE : April 14, 2008

TO SPE OF : ART UNIT 2622

SUBJECT : Request for Certificate of Correction on Patent No.: 7298424 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 - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

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

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

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

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

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

Comments:

SPE: /david ometz/ Art Unit 2622

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OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION
Grabner et al.	:	
Application Number: 10/140997	:	
Filing Date: 05/09/2002	:	
Attorney Docket Number: 78945-40 /jlo	:	

This is a decision in reference to the petition to withdraw the holding of abandonment filed on April 26, 2008, which is treated as a petition under 37 CFR 1.181.

The petition is **GRANTED**.

The application was held abandoned on July 19, 2006, for failure to timely submit a reply to the non-final Office action mailed on April 18, 2006, which set a three (3)-month shortened statutory period for reply. Notice of Abandonment was mailed on July 9, 2007.

Petitioners assert that a Change of Correspondence Address was filed on March 12, 2003, but that the non-final Office action mailed on April 18, 2006, was not mailed to the correct address. Petitioners assert that the non-final Office action mailed on April 18, 2006, was never received because it was also mailed to an incorrect address.

A review of the official record reveals on March 12, 2003, a Change of Correspondence Address signed by applicant's registered patent practitioner was filed, requesting that the Correspondence Address be changed to the address associated with Customer No. 29382. However, the non-final Office action mailed on April 18, 2006, was mailed to the address associated with Customer Number 29832 (*sic*).[1]

[1] The Notice of Abandonment mailed on October 27, 2006, was also mailed to this incorrect address.

As such, the showing of record is that the Office erred in not entering the proper Customer Number in the PALM database prior to the mailing of the non-final Office action mailed on April 18, 2006. Furthermore, a review of the record reveals that the Office action mailed on April 18, 2006, was returned to the Office as undeliverable.

The petitioner has made a sufficient showing of nonreceipt of the Office action mailed on April 18, 2006. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

As such, there is no abandonment in fact. The holding of abandonment is withdrawn, and the Notice of Abandonment is vacated.

The Office apologizes for any inconvenience to petitioner.

The petition is **GRANTED.**

The application file is being referred to the Technology Center Art Unit 2616 for remailing of the Office action mailed on April 18, 2006. The period for reply will be reset from the mailing date thereof.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Paper No. 7

MAILED
SEP 8 2003
OFFICE OF DIRECTOR
GROUP

Gunnar G. Leinberg, Esq.
NIXON PEABODY LLP
Clinton Square
P.O. Box 31051
Rochester, New York 14603-1051

In re Application of	)	
Boemler et al.	)	
Application No. 10/141,008	)	DECISION ON REQUEST TO
Filed: May 7, 2002	)	WITHDRAW FROM RECORD
For: Attorney Docket No. 201951/191	)	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed July 2, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request meets all the above listed requirements.

The request is APPROVED.

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

José G. Dees, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Mr. Jeffery Zarnowski
General Manager
Photo Vision Systems Inc.
One Technology Place
Finger Lakes Business and Technology Park
Homer, New York 13077

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FEB 18 2005

TECHNOLOGY CENTER 3600

Philip J. Pollick
P.O. Box 141363
Columbus, OH 43214-6363

In re application of
Shuji Mori
Application No. 10/141,033
Filed: May 7, 2002
For: METHOD OF DETERMINING PETROLEUM LOCATION

DECISION ON PETITION TO RESET A PERIOD FOR REPLY

This is a decision on the Petition to Reset the Period for Reply, filed in the Patent and Trademark Office on January 13, 2005 and supplemented on January 31, 2005. There is no fee required for this petition.

The petition is **GRANTED.**

A final Office action was mailed on October 18, 2004, setting forth a three-month shortened statutory period for response. Petitioner urges that the above-note Office action was not received until January 12, 2005, and that more than two months of the response period had already expired.

In accordance with MPEP 710.06, the Office will grant a petition to reset the period for reply when the following criteria are met: (A) the petition is filed within 2 weeks of the date of receipt of the Office action at the correspondence address; (B) a substantial portion of the set reply period had elapsed on the date of receipt (e.g. at least 1 month of a 2- or 3- month reply period had elapsed); and (C) the petition includes (1) evidence showing the date of receipt of the Office action at the correspondence address, and (2) a statement setting forth the date of receipt of the Office action at the correspondence address and explaining how the evidence being presented establishes the date of receipt.

The original petition in conjunction with the supplement meets all of the above requirements.

The time period set in the final Office action is, therefore, reset to run three months from the date of receipt of the Office action, January 12, 2005.

SUMMARY: The Petition to Reset Time Period is **GRANTED**.

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

RAR: 2/18/05

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/141,033	05/07/2002	Shuji Mori	H042.1.2	8688

27734 7590 04/24/2006

PHILIP J. POLLICK
P.O. BOX 141363
COLUMBUS, OH 43214-6363

EXAMINER
LOBO, IAN J

ART UNIT	PAPER NUMBER
3662	

DATE MAILED: 04/24/2006

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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PHILIP J. POLLICK
P.O. BOX 141363
COLUMBUS OH 43214-6363

In re Application of SHUJI MORI SERIAL NO.: 10/141,033 FILED: May 7, 2002 FOR: METHOD OF DETERMINING PETROLEUM LOCATION	: : : :	DECISION ON PETITION UNDER 37 CFR 1.181

This is a decision on the petitions filed February 13, 2006 and February 17, 2006 under 37 CFR 1.181 for designating rejections in the Examiner's Answer as new grounds of rejection.

The Examiner's Answer mailed December 13, 2005 contains rejections under 35 USC 101 and 35 USC 112, first paragraph. Applicant argues in "Ground 1" that these rejections contains significant new rationale that was not present in the final rejection: "the Art is an Unpredictable Art." It is true that the 35 USC 101 rejection adds a discussion of a new piece of evidence: "applicant's own admission (page 3, first paragraph) is an area of unpredictability". This does provide a new ground of rejection.

The 35 USC 112, first paragraph rejection refers to "the reasons set forth above", meaning the reasons given for the 35 USC 101 rejection; and thus the 35 USC 112, first paragraph rejection incorporates the same new evidence. This also provides a new ground of rejection.

The other reasons argued by applicant for considering the rejections as new grounds of rejections are moot in view of the presence of this first new ground of rejection.

PETITION GRANTED.

The application is being forwarded to the examiner to send a corrected Examiner's Answer identifying new grounds of rejection.

Donald T. Hajec
Director, T.C. 3600
571-272-6979

tht: 3-22-06

UNITED STATES PATENT AND TRADEMARK OFFICE

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APR 2 8 2006

TECHNOLOGY CENTER 3600

PHILIP J. POLLICK
P.O. BOX 141363
COLUMBUS OH 43214-6363

In re Application of
SHUJI MORI
SERIAL NO.: 10/141,033
FILED: May 7, 2002
FOR: METHOD OF DETERMINING PETROLEUM LOCATION

DECISION ON PETITION UNDER 37 CFR 1.181

This is a decision on the petitions filed February 13, 2006 and February 17, 2006 under 37 CFR 1.181 for designating rejections in the Examiner's Answer as new grounds of rejection.

The Examiner's Answer mailed December 13, 2005 contains rejections under 35 USC 101 and 35 USC 112, first paragraph. Applicant argues in "Ground 1" that these rejections contains significant new rationale that was not present in the final rejection: "the Art is an Unpredictable Art." It is true that the 35 USC 101 rejection adds a discussion of a new piece of evidence: "applicant's own admission (page 3, first paragraph) is an area of unpredictability". This does provide a new ground of rejection.

The 35 USC 112, first paragraph rejection refers to "the reasons set forth above", meaning the reasons given for the 35 USC 101 rejection; and thus the 35 USC 112, first paragraph rejection incorporates the same new evidence. This also provides a new ground of rejection.

The other reasons argued by applicant for considering the rejections as new grounds of rejections are moot in view of the presence of this first new ground of rejection.

PETITION GRANTED.

The application is being forwarded to the examiner to send a corrected Examiner's Answer identifying new grounds of rejection.

Donald T. Hajec
Director, T.C. 3600
571-272-6979

tht: 3-22-06

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 11

Blakely Sokoloff Taylor & Zafman
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1026

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AUG 04 2003

OFFICE OF PETITIONS

In re Application of :
Peter D. MacWilliams et al. :
Application No. 10/141,035 : ON PETITION
Filed: May 7, 2002 :
Attorney Docket No. 42P3695C2 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 18, 2003, to revive the above-identified application.

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner in reply to the final Office action mailed November 6, 2002, which set a shortened statutory period for reply of three months. Extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on April 8, 2003. (bec 2 mo ext)

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

As to 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 11/6/02. 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, 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) 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.

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

By mail: Mail Stop Petitions
PO Box 1450
Arlington, VA 22313-1450

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

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

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

Latrice Bond

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

Attachment: "Courtesy Copy of Advisory Action"

Advisory Action	Application No.	Applicant(s)	
	10/141,035	MACWILLIAMS ET AL.	
	Examiner	Art Unit	
	Kevin Verbrugge	2188	

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

THE REPLY FILED 07 April 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. 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 (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

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. ONLY CHECK THIS BOX 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).

1.☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2.☐ The proposed amendment(s) 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: _____.

3.☐ Applicant's reply has overcome the following rejection(s): _____.

4.☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5.☐ The a)☐ affidavit, b)☐ exhibit, or c)☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.

6.☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

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: 23-33.

Claim(s) withdrawn from consideration: _____.

8.☐ The proposed drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9.☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s).

10.☐ Other: _____

7/30/03

Kevin Verbrugge
Primary Examiner
Art Unit: 2188

The newly claimed "address size indicator circuit" is anticipated by Barnich's common address decoder 24. Common address decoder 24 functions to generate a signal IOC (I/O compare) to indicate a size of an address space used by the request as follows: when the CPU 20 generates a request destined for the 4-bit I/O address space of the I/O devices (only one of which is shown for simplicity), it puts a predetermined pattern of bits (all ones in the simplest example, but any pattern can be used with the appropriate inverters 25 placed on the inputs to common address decoder 24) on lines 8-15 which results in an active IOC signal. When CPU 20 generates a request destined for the 12-bit address space of the peripherals, it avoids putting the predetermined pattern on lines 8-15 and therefore can put a full 12 bit address on lines 4-15 which results in an inactive IOC signal. Therefore, the common address decoder 24 indicates a size of an address request (either 4 bits or 12 bits) and whether the first (4 bit space) or second (12 bit space) supports the size of the address request.

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Paper No. 14

Blakely Sokoloff Taylor & Zafman
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1026

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FEB 1 2 2004

OFFICE OF PETITIONS

In re Application of	:	
Peter D. MacWilliams	:	
Application No. 10/141,035	:	ON PETITION
Filed: May 7, 2002	:	
Attorney Docket No. 42P3695C2	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed February 6, 2004, to revive the above-identified application.

The petition is granted.

The application file is being forwarded to Technology Center AU 2188 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. 15

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1026

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JUL 0 8 2004
OFFICE OF PETITIONS

In re Application of :
Peter D. MacWilliams et al :
Application No. 10/141,035 :
Filed: May 7, 2002 :
Attorney Docket No. 42P3695C2 :

ON PETITION

CORRECTED DECISION

This is a decision on the petition under 37 CFR 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)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

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

---

[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.

A petition to revive was received on February 6, 2004. However, the reply from the Office action, which indicate amendment enclosed, was not received with the petition. Accordingly, this application cannot be revived until the amendment has been received.

The decision mailed February 12, 2004 is hereby vacated as of the mail date of this decision.

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) 306-5684.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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SIMPSON & SIMPSON, PLLC
5555 MAIN STREET
WILLIAMSVILLE, NY 14221-5406

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FEB 09 2006

OFFICE OF PETITIONS

In re Application of	:	
Kenneth R. Tetrault	:	
Application No. 10/141,084	:	ON PETITION
Filed: May 9, 2002	:	
Attorney Docket No. TETP:102US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 12, 2005, to revive the above-identified application.

This application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due/Notice of Allowability mailed on July 12, 2004. A Notice of Abandonment was mailed November 22, 2004.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $700 for the issue fee, $300 for the publication fee and two (2) sheets of replacement drawings containing Figures 1-3; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Power of Attorney and Change of Correspondence Address filed December 12, 2005, has been accepted and made of record.

This application is being referred to the Office of Publications for review of the replacement drawings filed December 12, 2005.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 300
MCLEAN VA 22102

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OCT 1 3 2005

OFFICE OF PETITIONS

In re Application of
Bjorn Jawerth et al.
Application No. 10/141,100
Filed: May 7, 2002
Attorney Docket Number: 10787-029

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1], filed September 30, 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 February 11, 2005. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time were requested prior to the abandonment of the application on May 12, 2005. The instant petition and this decision on petition precede the mailing of a Notice of Abandonment.

The record reveals that a three month extension of time was filed with the instant petition, however, pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $1020.00 extension of time fee submitted with the petition on September 30, 2005, was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to counsel's deposit account no. 03-1952.

This matter is being referred to Technology Center 2613 for appropriate action on the amendment filed September 30, 2005.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

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Hedman & Costigan, PC
1185 Avenue of the Americas
New York, NY 10036

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JUN 3 0 2005

OFFICE OF PETITIONS

In re Application of:
Tsou et al.
Application No. 10/141,108
Patent No. 6,855,660
Filing Date: May 8, 2002

: Decision Dismissing Petition

This decision is in response to Applicants' "PETITION FOR ADJUSTMENT OF PATENT TERM ADJUSTMENT" timely[1] filed on August 25, 2005. Applicants' request that the PTA be adjusted to reflect a determination of either 455 days or at the very least 399 days of PTA at the time of the issuance of the application.

Applicants' petition for PTA adjustment is **DISMISSED.**

Applicants argue that the Office erred in assessing a seventy-seven (77) day delay for the submission of an oath or declaration after the mailing of the notice of allowance. Applicants assert that the request for the new oath or declaration was by the Office and therefore applicant was complying with the request and should not be penalized. In the alternative, applicant asserts that the even if the submission of the paper is considered a failure to engage in reasonable efforts to conclude prosecution of the application, the Office erred in the amount of time assessed. Applicants assert that the delay should have been from the notice of allowance mailed on October, 2004 until the date of the submission of the oath on December 1, 2004, a fifty-six day delay.

Applicants arguments are not deemed persuasive. The Office notes that the submission of a supplemental oath or declaration filed after the date of the mailing of the notice of allowance is considered a failure to engage in reasonable efforts to conclude prosecution of the application. The Office posted a notice in the Official Gazette notifying applicants of such policy. See 1247 Off. Gaz. Pat. Off 111 (June 26,2001). In addition, the assessment of 77 days is accurate. See 37 CFR 1.704(c)(10). Applicants' reduction begins on the date of the submission of the Oath or declaration and ends on the date of reply by applicant or four months whichever is less.[2] See 37 CFR 1.704(c)(10).

After the mailing of this decision, the file will be returned to the File repository.

---

[1]Patent issued on February 15, 2005

[2]The Office will treat the date of issuance of the patent as the response date if such date occurs prior to 120 days of the submission of oath or declaration. In this application, the reduction began on December 1, 2004 and ended on February 15, 2005, a 77 day reduction.

The Office has assessed the $200.00 fee for this submission of this petition. No additional fees are required by the Office.

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

Kery A Fries
for

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
www.uspto.gov

Paper No. 090503

HARSHAW RESEARCH INCORPORATED
P.O. Box 418
Ottawa, KS 66067

SEP - 9 2003

In re Application of:	:	
Elcho R. Pechler	:	
Application No. 10/141,160	:	DECISION ON PETITION
Filed: May 08, 2002	:	TO MAKE SPECIAL
For: **VERTICAL-AXIS WIND**	:	
TURBINE	:	

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed May 08, 2002, and supplemented on September 03, 2003, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.) § 708.02, Section IV: Applicant's Age.

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

The petition includes an affidavit by Elcho R. Pechler stating that the applicant is sixty-five (65) years of age or more.

Accordingly, the petition is GRANTED.

If the examiner can make this application special without prejudice to any possible interfering applications, and s/he should make a rigid search for such, s/he is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, 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.

Inquiries regarding this decision should be directed to Clayton LaBalle at (703) 308-0519.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Paper No. 5

JAMES A. LABARRE
BURNS DOANE SWECKER & MATHIS, L.L.P.
P.O. BOX 1404
ALEXANDRIA, VA 22313-1404

COPY MAILED

DEC 13 2002

OFFICE OF PETITIONS

In re Application of :
Jason Bennett et al :
Application No. 10/141,181 :
Filed: May 9, 2002 :
Attorney Docket No. 007198-460 :

NOTICE

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

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

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

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

This file is being forwarded to Technology Center 3600.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Gordon Lane Phillips
P.O. Box 5154
High River, AB 11V1M-4 CA
CANADA

COPY MAILED

JUL 2 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Gordon Lane Phillips, et. al.	:	
Application No. 10/141,185	:	ON PETITION
Filed: January 8, 2004	:	
Attorney Docket No. ACE-16809	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 30, 2005, to revive the above-identified application.

The petition is **dismissed**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 8, 2003, which set a shortened statutory period for reply of three (3) months. A three (3) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned after midnight January 8, 2004.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (**1**) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (**2**) the petition fee required by 37 CFR 1.17(m); (**3**) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (**4**) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks items (1), (2), and (3) above.

As to item (1), a continued examination under 37 CFR 1.114 does not apply to an application unless prosecution in the application is closed. Thus, the Request for Continued Examination (RCE) filed January 21, 2004 is improper. In view of such, petitioner may request a refund of $385 for the RCE fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

As to item (2), Office records fail to show that petitioner submitted the required petition fee of $750. Therefore, $750 for the petition to revive fee must be submitted.

As to item (3), a review of the record shows that a Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address was filed by facsimile transmission on February 28, 2005. The Office has accepted and made of record the Revocation of Power of

Attorney and the Change of Correspondence Address. However, it is unclear whether Peter Wayne Dixon is appointing Gordon Lane Phillips as the individual to prosecute the above application on his behalf. Petitioner is reminded that all communications must be signed by both inventors. 37 CFR 1.33(b) states that:

> Amendments and other papers filed in the application must be signed by:
>
> (1) An attorney or agent of record appointed in compliance with § 1.34(b);
> (2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);
> (3) The assignee of record of the entire interest, if there is an assignee of record of the entire interest;
> (4) An assignee of record of an undivided part interest, and any assignee(s) of the remaining interest and any applicant retaining an interest, if there is an assignee of record of an undivided part interest; or
> (5) **All of the applicants (§§ 1.42. 1.43 and 1.47) for patent, unless there is an assignee of record of the entire interest and such assignee has taken action in the application in accordance with §§ 3.71 and 3.73**.

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 proper reply to the Office action, the $750 petition fee, and . Petitioner is advised that this is not a final agency decision.

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

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

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
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

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SEP 25 2006
OFFICE OF PETITIONS

Gordon Lane Philips
P.O. Box 5154
High River AB 11V1M-4 CA
CANADA

In re Application of	:	
Gordon Lane Phillips, et. al.	:	
Application No. 10/141,185	:	ON PETITION
Filed: May 9, 2002	:	
Attorney Docket No. N/A	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed September 26, 2005, to revive the above-identified application.

Since the petition now satisfies the requirements of 37 CFR 1.137(b), in that petitioner has supplied the petition fee of $750 and the signature of the co-inventor, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 3724.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : October 27, 2009

Patent No. :7502858
Inventor(s) :Ajit Kumary Gupta, et al.
Issued :March 10, 2009
Title :INTEGRATED POINT OF PRESENCE SERVER NETWORK

Re: Request for Certificate of Correction

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

Review of the application file has revealed the requested insertion to include additional Related Application Data to the printed patent as unwarranted as a result of applicant's failure to fully comply with 35 U.S.C. 119, in that conditional requirements were not met.

However, applicant may request further consideration by submission of a new request filed under 37 CFR 1.323 along with the Certificate of Correction fee presently $100.00 or a reconsideration filing together with documentation in support of applicants request filed under 1.322. Required documentation may include acknowledgement of receipt.

In view of the forgoing, applicant's request in this matter is hereby denied. Any telephone inquiry concerning this communication should be directed to Ms. A. Green at (703) 756-1541.

A Green

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (703) 756- 1541

Hickman, Palermo, Truong
& Becker LLP
2055 Gateway Place, Ste 550
San Jose, Ca 95110-1089

/arg

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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FISH & RICHARDSON
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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JAN 23 2006

OFFICE OF PETITIONS

In re Application of :
Shunpei Yamazaki et al :
Application No. 10/141,206 :
Filed: May 7, 2002 :
Attorney Docket No. 07977-238002 :

ON PETITION

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

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on December 21, 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 2822 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. Nine

Timothy Gusler
43 Madison Street
Pequannock NJ 07440

COPY MAILED

APR 0 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Timothy Gusler	:	DECISION ON PETITION
Application No. 10/141,210	:	UNDER 37 C.F.R. §1.137(B)
Filed: May 8, 2002	:	
Title: NOSE VACUUM	:	

This is a decision on the petition filed January 25, 2007, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

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

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed December 19, 2003, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on March 20, 2004. A notice of abandonment was mailed on July 27, 2004.

---

1 A grantable petition pursuant to 37 C.F.R §1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

With the present petition, Petitioner has submitted the petition fee, an amendment, and the proper statement of unintentional delay. No terminal disclaimer is required.

As such, the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment which was filed concurrently with the present petition can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[2]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

MAILED

JAN 13 2010

OFFICE OF PETITIONS

In re Application of	:	
Alvares et al.	:	
Application No. 10/141,215	:	ON PETITION
Filed: May 7, 2002	:	
Attorney Docket No. 3194.1024-001	:	

This is a decision on the petition, filed July 13, 2009, which is being treated as a petition under 37 CFR 1.8(b), 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 Appeals, mailed March 27, 2009, which set a two (2) month period for reply. No extensions of time under 37 CFR 1.136(a). Accordingly, a reply was due on or before May 27, 2009.

Petitioner states that a timely reply was mailed via certificate of mailing on May 26, 2009, which included a Request for Rehearing. Petitioner has submitted a copy of the previously mailed correspondence, which bears a certificate of mailing dated May 21, 2009.

The reply acknowledged as having been received in the USPTO on May 26, 2009 (certificate of mailing date of May 21, 2009) has been located in the application file.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of March 27, 2009 is hereby withdrawn and the application restored to pending status.

This matter is being referred to the Board of Appeals for further appropriate action.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NEKTAR THERAPEUTICS
150 INDUSTRIAL ROAD
SAN CARLOS CA 94070

COPY MAILED

AUG 13 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Weers, et al. :
Application No. 10/141,219 :
Filed: May 7, 2002 :
Attorney Docket No. 0073.20 :
For: METHODS FOR ADMINISTERING
LEUPROLIDE BY INHALATION

This is a decision on the petition under 37 CFR 1.181, filed July 25, 2007, 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 manner to the final Office action, mailed November 29, 2006, which set a three (3) month extendable period for reply. Having received no reply or extension of time, the Office considered the application abandoned on March 1, 2007. A Notice of Abandonment was mailed June 21, 2007.

Petitioners assert that a proper response was in fact timely received in the Office on March 28, 2007. In support, petitioners submitted a copy of the amendment with a proper certificate of facsimile transmission affixed thereto.

Under 37 C.F.R. § 1.8(a)(1) correspondence is considered timely if: (1) the correspondence is mailed or transmitted prior to expiration of the set period for response by being properly addressed to the Patent and Trademark Office as set out in 37 C.F.R. § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail or transmitted to the Patent and Trademark Office in accordance with 37 C.F.R. § 1.6(d); and (2) the correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

The amendment bears a proper certificate of mailing, dated March 28, 2007, in compliance with the requirements of 37 C.F.R. § 1.8(a)(1) as set forth above. In addition, the person signing the

certificate had reasonable basis to expect that the correspondence would be transmitted on March 28, 2007.

In addition, petitioners have submitted an auto-reply facsimile transmission from the Office, showing that the Office received a 47 page document from NEKTAR on March 28, 2007 and their transmission verification report that shows 47 pages was transmitted to 571 273-8300, which is the Office's centralized facsimile number.

It is noted that petitioners' deposit account was charged a $120.00 one month extension of time fee on mailroom date March 28, 2007.

The evidence supports the conclusion that the March 28, 2007 facsimile transmission was received in the Office and later misplaced.

Therefore, the response to the November 29, 2006 final Office action was timely filed. Accordingly, the petition is **GRANTED**, the Notice of Abandonment is hereby vacated, and the holding of abandonment withdrawn.

After the mailing of this decision, the application file will be forwarded to Technology Center A.U. 1617 for consideration of the amendment filed March 28, 2007 and resubmitted on July 25, 2007.

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

Shirene Willis Brantley

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JAN 14 2008

OFFICE OF PETITIONS

NEKTAR THERAPEUTICS
201 INDUSTRIAL ROAD
SAN CARLOS CA 94070

In re Application of	:	
Jeffry WEERS et al.	:	
Application No. 10/141,219	:	DECISION ON PETITION
Filed: May 07, 2002	:	
Attorney Docket No. **0073.20**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 15, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 29, 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 one (1) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is March 30, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2783.

This application is being referred to Technology Center AU 1617 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

David 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

WILLIAM S. VAN POYEN, ESQ.
PETTIS & VAN ROYEN, P.A.
501 E. KENNEDY BLVD.
SUITE 700
TAMPA, FL 33605

COPY MAILED

AUG 30 2005

OFFICE OF PETITIONS

In re Application of	:	
Stein, Daniel S.	:	
Application No. 10/141,239	:	ON PETITION
Filed: May 8, 2002	:	
Attorney Docket No. VP-7113-102	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 22, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed March 8, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 9, 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 the Publishing Division for processing into a patent.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CAMPBELL STEPHENSON LLP
11401 CENTURY OAKS TERRACE
BLDG. H, SUITE 250
AUSTIN, TX 78758

Mail Date: 04/27/2010

Applicant	: Jay Sethuram	: DECISION ON REQUEST FOR
Patent Number	: 7606265	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/141,264	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/08/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1383** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 032004

TANGENT LAW GROUP
Suite 300
1201 Pennsylvania Avenue
Washington, DC 20004

MAR 15 2004

In re Application of David Elder et al.
Application No.: 10/141,266
Filed: May 07, 2002
For: MARKING SYSTEMS

WITHDRAWAL FROM ISSUE
37 CFR 1.313

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

The application is being withdrawn to permit consideration of a preliminary amendment adding new claims that have not been considered by the examiner.

The US Patent and Trademark Office records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Fee(s) 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 Fee(s) Due. If the application is abandoned, applicant may request either a refund or a credit to a Deposit Account.

Any question regarding this communication should be directed to Diego Gutierrez, Supervisory Patent Examiner, at (571) 272-2245.

The application is being returned to the examiner for consideration of the preliminary amendment and for taking appropriate action.

Howard N. Goldberg, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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www.uspto.gov

Jenner & Block, LLP
One IBM Plaza
Chicago, IL 60611

COPY MAILED
AUG 2 7 2004
OFFICE OF PETITIONS

In re Application of	:	
David W. Caldwell	:	
Application No. 10/141,289	:	NOTICE
Filed: May 6, 2002	:	
Attorney Docket No. 37041-10469	:	

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

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

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

This application is being referred to Technology Center Art Unit 2835, to await the response to the non-final Office action mailed August 24, 2004.

Inquiries related to this communication should be directed to the undersigned at (703) 308-6711.

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

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

CUSTOMER NO. 35811

Art Unit	: 1734	
Examiner	: Sue A. Purvis	
Serial No.	: 10/141,296	
Filed	: May 8, 2002	
Inventor	: Luc de Moustier	Not. Of Allow.: 12/14/04
Title	: APPARATUS FOR MANUFACTURING	Docket No.: 1134-02
	: PACKAGING OR CUSHIONING	Confirmation No.: 7906
	: PRODUCTS COMPRISING POPPED	
	: GRAINS AND THE RESULTANT	
	: PRODUCT	Dated: March 17, 2005

PETITION TO WITHDRAW FROM ISSUE UNDER 37 C.F.R. §1.313 AND EXPRESS ABANDONMENT

FAX RECEIVED

MAR 1 8 2005

OFFICE OF PETITIONS

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

Sir:

Applicant respectfully requests that the above-identified application be withdrawn from issue and that the application be expressly abandoned.

The issue fee was paid on March 10, 2005 and our client has decided to abandoned this application. Kindly refund the issue fee of $1,000.00 paid by check No. 12076 dated March 10, 2005. We do not authorize any payment for the issue fee to Deposit Account No. 50-2719.

The Commissioner is hereby authorized to charge the required petition fee to Deposit Account No. 50-2719. This authorization is made in duplicate.

Respectfully submitted,

T. Daniel Christenbury
Reg. No. 31,750
Attorney for Applicants

TDC:rb
(215) 656-3381

UNITED STATES PATENT AND TRADEMARK OFFICE

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

IP GROUP OF DLA PIPER RUDNICK GRAY CARY
US LLP
1650 MARKET ST.
SUITE 4900
PHILADELPHIA PA 19103

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OFFICE OF PETITIONS

In re Application of	:
Luc DeMoustier	:DECISION ON PETITION UNDER
Application No. 10/141,296	: 37 CFR 1.313(c)(3)
Filed: May 8, 2002	:
Attorney Docket No. 1134-02	:

This is a decision on the petition, filed March 18, 2005, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for express abandonment. See 37 CFR 1.313(c)(3).

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

As to petitioner's request for a refund of the issue fee, petitioner's attention is directed to MPEP §1308.01 which states that a refund may be requested **if the examiner has withdrawn the application from issue for the purpose of reopening prosecution.** However, in the instant application, the examiner has not reopened prosecution of the application. Also, note 37 CFR 1.26 which states:

> The Director may refund any fee paid by mistake or in excess of that required. A change of purpose after the payment of a fee, such as when a party desires to withdraw a patent filing for which the fee was paid, including an application, an appeal, or a request for an oral hearing, will not entitle a party to a refund of such fee.

The payment of the issue fee was owed and required by law at the time of payment thereof. Therefore, payment was not made by mistake or in excess of that required nor was there a mistake in payment as contemplated by 37 CFR 1.26. For these reasons, the $700 issue fee submitted is not refundable.

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

This matter is being referred to Files Repository.

Karen Creasy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND OH 44114-3108

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OFFICE OF PETITIONS

In re Application of
Mick Trompen et al.
Application No. 10/141,300
Filed: May 8, 2002
Attorney Docket No. 33725

ON PETITION

This is a decision on the petition filed September 19, 2005, under 37 CFR 1.137(a)[1], to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned July 2, 2005 for failure to pay the issue fee by July 1, 2005, in response to the Notice of Allowance mailed April 1, 2005. The instant petition and this decision precede the mailing of a Notice of Abandonment.

Petitioner argues that a change of address was filed March 17, 2005 and that the Notice of Allowance, mailed April 1, 2005, was mailed to the old address and thus not received. Petitioner further argues that the Notice mailed April 1, 2005 was returned to the USPTO as undeliverable and submits a copy of the USPTO date-stamped post card receipt as proof of the filing of the change of address, filed March 17, 2005.

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

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[1]A grantable petition under 37 CFR 1.137(a) must be accompanied by:

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

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

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

> 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]

Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[3]

A review of the file reveals that the petitioner is correct, that a change of address was in fact filed on March 17, 2005, prior to the mailing of the Notice of Allowance. It is noted therefore that an error on the part of the USPTO caused the office action mailed to not be received by the petitioner. Thus, petitioner's delay in paying the issue fee was unavoidable under the standard set out at 37 CFR 1.137(a).

The address has been corrected and this matter is being referred to the Publishing Division to be processed into a Patent.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[2] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[3] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

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P.O. Box 1450
Alexandria, VA 22313-1450
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The Hoover Company
101 East Maple Street
North Canton IL 44702

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MAR 14 2007

OFFICE OF PETITIONS

In re Application of	:	
Boyer et al.	:	DECISION ON PETITION
Application No. 10/141,305	:	
Filed: 05-08-2002	:	
Attorney Docket No. 2599	:	

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

The above-identified application became abandoned for failure to file a timely response to the nonfinal Office Action, mailed June 13, 2005, which set a three-month shortened statutory period for reply. The above-identified application became abandoned on September 14, 2005. On February 14, 2006, the Office mailed a Notice of Abandonment.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply, paid the petition fee, and made the proper statement of unintentional delay. Accordingly, the petition is **granted.**

This matter is being referred to Technology Center Art Unit 1724.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 9

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NOV 26 2003

Technology Center 2100

Laura A. Majerus
FENWICK & WEST LLP
Two Palo Alto Square
Palo Alto, CA 94306

In re Application of:
Daniel I. Goodman
Application No.: 10/141,308
Filed: May 7, 2002
For: METHOD AND SYSTEM FOR REAL TIME CONTROL OF DOCUMENT PRINTING

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1. 36 and 10.40(c) filed February 19, 2003.

A Power Of Attorney Under 37 CFR § 1. 36 was filed on August 11, 2003. The Power Of Attorney revoked all prior Powers Of Attorney and appointed SQUIRE, SANDERS & DEMPSEY L.L.P. as the attorneys of record of the instant application. The Power Of Attorney of August 11, 2003 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by SQUIRE, SANDERS & DEMPSEY L.L.P.

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

No further communication to you regarding this application will be made.

For James R. Matthews
Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Marc Sockol
SQUIRE, SANDERS & DEMPSEY L.L.P.
600 Hansen Way
Palo Alto, CA 94304-1043

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

King and Spalding LLP
1700 Pennsylvania Ave, NW
Suite 200
Washington, DC 20006

Mail Date: 07/13/2010

Applicant	: Daniel I. Goodman	: DECISION ON REQUEST FOR
Patent Number	: 7664956	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/141,308	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/07/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1156** 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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MATTHEW E. CONNORS
GAUTHIER & CONNORS LLP
225 FRANKLIN STREET SUITE 3300
BOSTON MA 02110

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DEC 23 2004

OFFICE OF PETITIONS

In re Application of :
Anuradha M. Agarwal et al. :
Application No. 10/141,317 : ON PETITION
Filed: May 8, 2002 :
Attorney Docket No. 9190 :

This is a decision on the petition under 37 CFR 1.137(b)[1], filed October 26, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The instant application became abandoned on July 17, 2004, for failure to submit within three months, a proper and timely response to the final Office action mailed on April 16, 2004. By Advisory Action dated September 21, 2004, petitioners were informed that the reply to the Office Action, filed August 18, 2004 with a one month extension of time, did not place the application in condition for allowance. This petition and decision on petition precedes the mailing of the Notice of Abandonment.

---

[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)).

Petitioner has submitted a Request for Continued Examination (RCE). The amendment submitted August 18, 2004, has been identified as the submission required under 37 CFR 1.114.

Additionally, a three month extension of time and fees have been submitted with the instant petition. However, pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $490.00 extension of time fee submitted with the petition on October 26, 2004, was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to counsel's deposit account no. 19-0079.

The application is being forwarded to Technology Center 2874 for processing of the RCE and submission.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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)
6,972,742	2005-12-06	10/141,325	2002-05-07	CLMCR.004A1

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. Abumeri/	Date (YYYY-MM-DD)	2010-02-10
Name	Mark M. Abumeri	Registration Number	43458

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent No. 6972742
Issue Date: December 6,2005
Application No. 10141325
Filed: May 7,2002
Attorney Docket No. CLMCR.004A1

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

This is a decision on the electronic petition, filed February 10,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 10,2010 . 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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JOHN L. ROGITZ
ROGITZ & ASSOCIATES
SUITE 3120
750 B STREET
SAN DIEGO, CA 92101

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JUL 03 2006

OFFICE OF PETITIONS

In re Application of	:	
Matthew Denesuk, et al.	:	
Application No. 10/141,327	:	ON PETITION
Filed: May 8, 2002	:	
Attorney Docket No. ARC920020002US1	:	

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

A review of the record discloses that the above-identified application became abandoned for failure to reply in a timely manner to a final Office action mailed May 19, 2005, which set a shortened statutory period for reply of three (3) months. A Notice of Abandonment was mailed on December 19, 2005. On January 3, 2006, the present petition was filed, along with a Notice of Appeal and Appeal Brief.

Petitioner contends that the Office Action mailed May 19, 2005 was not received and requests a refund the petition fee. However, an allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

(1) A statement from the practitioner stating the Office communication was not received by the practitioner;
(2) A statement attesting to the fact that a search of the file jack and docket records indicates that the Office communication was not received; and
(3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The docket record indicated above must include a copy of the **list** of all responses in the practitioner's office with the due date of September 28, 2004. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993). The petition has failed to comply with requirements (2) and (3) indicated above. Accordingly, the petition under 37 CFR 1.137(b) is necessary and the petition fee will not be refunded.

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

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of Notice of Appeal and Appeal Brief, including the requisite fees; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Accordingly, the petition is **GRANTED**.

The application is being referred to Technology Center AU 2166 for further processing.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[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.

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Alexandria, VA 22313-1450
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NOV 22 2005

Attn: Harry M. Weiss
WEISS & MOY PC
4204 North Brown Avenue
Scottsdale, AZ 85251

In re Application of	:
Robert H. Boling III et al	: **DECISION ON PETITION**
Serial No. 10/141,330	: **UNDER 37 CFR 1.181**
Filed: May 6, 2002	: **FOR**
Attorney Docket No. 4258P2478	: **SUPERVISORY REVIEW**
	:

This is in response to the petition filed September 19, 2005 under 37 CFR 1.181, requesting Supervisory Review of the above noted Application.

The Petition is DISMISSED.

A review of the file history in this application reveals that the application was finally rejected on May 24, 2005. An Amendment After Final was sent on July 14, 2005 and an Advisory action mailed August 1, 2005. An Interview was subsequently held on September 8, 2005.

The Petition has been written in the form of an amendment and appears to be requesting the entry of such amendment and allowance of the application. A petition is not the proper article by which to amend the claims of an application. Accordingly, the examiner has not formally considered the claims as filed in the petition.

Regarding the examiner's handling of the application, to the degree that applicant has discussed the proposed amendment with the examiner in the interview, the record shows that the examiner has appropriately and

specifically applied prior art to the claims. He has identified how the prior art has been interpreted to read on the claim language and provided motivation for the combination. It is noted that the use of more than two prior art references does not preclude a proper holding of obviousness. The examiner has also addressed the proposal to combine claims 1,6 and 7 during the interview held on September 8, 2005.

If the Petitioner wishes to further argue the rejections set forth by the examiner, a Notice of Appeal can be filed. Once this step has been taken, Petitioner may take advantage of the Pre-Appeal Conference program to request panel review of any possible rejections believed to be clearly wrong. Such a request will allow for a formal review of the legal and factual basis of the rejection before the filing of an Appeal Brief of the claims of record.

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

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THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL BUSINESS CENTER – BOX 161
CINCINNATI, OH 45224

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OFFICE OF PETITIONS

In re Application of	:	
Raphael Louis Mangin et al	:	
Application No. 10/141,332	:	DECISION GRANTING PETITION
Filed: May 8, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. CM2546	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 22, 2006, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 26, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1751 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

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

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Paper No.

BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON DC 20001-5303

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OFFICE OF PETITIONS

In re Application of	:	
Adelman et al.	:	DECISION ON
Application No. 10/141,349	:	PETITION
Filed: May 9, 2002	:	
Atty Docket No. ADELMAN 1A	:	

This is a decision on the "PETITION TO VACATE HOLDING OF ABANDONMENT," filed March 8, 2006.

The petition under §1.181 is **GRANTED**.

The above-identified application became abandoned for failure to file a reply to the final Office action mailed August 19, 2005. This Office action set a three-month shortened statutory period for reply, with extensions of time obtainable under § 1.136(a). No reply and no extension of time considered obtained, the above-identified application became abandoned on November 20, 2005. A Notice of Abandonment was mailed on February 27, 2006.

The petition was filed promptly thereafter. Therein, petitioner asserts that applicants timely and properly responded within the time period established by the Office Action dated August 19, 2005 by timely filing an Amendment After Final and a Notice of Appeal on (Monday) February 21, 2006. In support thereof, petitioner submits copies of their return receipt postcards and copies of the responses as originally filed.

A postcard receipt, which itemizes and properly identifies the items, which are being filed, serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. Petitioner's evidence has been considered. The postcard evidence properly identifies the Amendment After Final and the Notice of Appeal as having been timely submitted with the necessary fees on February 21, 2006. Further, payment of the appeal fee and extension fee is of record in the application with a date of receipt of February 21, 2006.

It is unknown at this juncture whether the Amendment places the application in condition for allowance. Thus, it is unknown whether its timely filing alone was sufficient to prevent abandonment of this application. Nonetheless, due to the timely filing of a Notice of Appeal, the application did not become abandoned.

In view thereof, the Notice of Abandonment is **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

No petition fee is required and none has been charged.

Please be advised that the two-month period for filing an appeal brief (accompanied by the fee required by 37 C.F.R. § 41.20(b)(2)), runs from the mail date of this decision.

The Technology Center AU has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the Amendment After Final and Notice of Appeal both filed February 21, 2006.

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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FOLEY & LARDNER LLP
3000 K ST NW
SUITE 500
WASHINGTON DC 20007

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DEC 0 2 2005

OFFICE OF PETITIONS

In re	:
Duerr, et al.	: DECISION REGARDING
Application No. 10/141,356	: PATENT TERM ADJUSTMENT
Filed: May 9, 2002	:
Patent No. 6,938,685	:
Issued: September 6, 2005	:

This decision is in response to the "LETTER (UNDER A GENERAL OBLIGATION OF CANDOR AND GOOD FAITH IN PRACTICE BEFORE THE OFFICE", filed August 3, 2005, notifying the Office of an error in Patentees' favor in the patent term adjustment.

The request is **DISMISSED**.

On March 1, 2005, the Office mailed the Determination of Patent Term Adjustment. The notice indicated a patent term adjustment of zero (0) days. On September 6, 2005, the above-identified application matured into U.S. Patent No. 6,938,685. The patent issued with a Patent Term Adjustment of twenty-nine (29) days.

A review of the record reveals that applicants submitted an IDS on January 19, 2005. However, the Notice of Allowance mailed on March 1, 2005, did not include an initialed IDS. Applicants filed the request for an initialed IDS on April 4, 2005. This was the first opportunity for applicants to make the request for the initialed copy of the IDS filed January 19, 2005.

Accordingly, it was proper not to assess applicants any delay for this submission, even though it occurred after the mailing of the Notice of Allowance.

A review of the application does not reveal any errors in the calculation of the patent term adjustment. Accordingly, the correct patent term adjustment of twenty-nine (29) days appears to be correct. To the extent that applicants are aware of any specific error in the PTA calculation, applicants should so advise the Office.

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

Kery A. Fries

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

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ROSS CONTROLS
ATTN : ANGELA DAVISON
1250 STEPHENSON HIGHWAY
TROY, MI 48083

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OFFICE OF PETITIONS

In re Application of :
Charles A. Weiler, Jr. :
Application No. 10/141,361 : DECISION ON PETITION
Filed: May 8, 2002 :
Atty Docket No. 1810-0132CPB :

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

The petition is **GRANTED.**

This application became abandoned for failure to timely pay the issue fee on or before March 8, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed December 8, 2005. Accordingly, the date of abandonment of this application is March 9, 2006. A Notice of Abandonment was mailed on September 15, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $700, (2) the petition fee of $750, and (3) a proper statement of unintentional delay. Accordingly, the issue fee is accepted as having been unintentionally delayed.

In view of the statement under 37 CFR 1.27, this application has been accorded small entity status.

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

This application is being referred to Publishing Division for appropriate processing in accordance with this decision on petition.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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DAVID GIGLIO
Attorney at Law
231 Elizabeth Street
Utica NY 13501

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OFFICE OF PETITIONS

In re Application :
Gebbia, et al. :
Application No. 10/141,402 : ON PETITION
Filed: May 9, 2002 :
Attorney Docket No. 201 PA 001 :
For: OPTICAL FIBER CABLE BASED
INTRUSION DETECTION SYSTEM

This is a decision on the constructive petition under 37 CFR 1.182, filed August 2, 2004, to change the order of inventors.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.182." Petitioners are advised that this is not a final agency decision.

Petitioners paid $100.00 and submitted an informal Certificate of Correction with the goal of changing the order of inventors. A petition under 37 CFR 1.182 is required to accomplish this goal. At the time the constructive petition was filed, the petition fee due for a petition under 37 CFR 1.182 was $130.00. A petition is not filed until the petition fee is received. The current petition fee due is $400.00. Petitioners must submit $400.00, as well as a properly completed Certificate of Correction listing all the joint inventors in the desired order. Petitioners have already paid the $100.00 Certificate of Correction fee.

Please be aware that if the patent issues prior to the order of inventors being changed, no alteration in the order will be made. *Fina Technology Inc. v. Ewen*, 60 USPQ2d 1314 (CAFC 2001)

The file is being returned to Publications Division.

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

E. Shirene Willis

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

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FIBER INSTRUMENT SALES, INC.
ATTN: BEN VIGLIETTA
161 CLEAR ROAD
ORISKANY NY 13424

MAILED

MAY 25 2010

OFFICE OF PETITIONS

In re Patent No. 6,980,108	:	
Issue Date: December 27, 2005	:	
Application No. 10/141,402	:	DECISION ON PETITION
Filed: May 9, 2002	:	
Attorney Docket No. 201 PA 001	:	

This is a decision on the petition under 37 CFR 1.378(c), filed April 12, 2010 to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on December 28, 2009 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

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WASHINGTON, D.C. 20231
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Paper No. 6

MATTINGLY, STANGER & MALUR, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

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OFFICE OF PETITIONS

In re Application of
Ishitsuka, et al.
Application No. 10/141,422
Filed: May 9, 2002
Attorney Docket No. H-813-03
For: METHOD FOR MANUFACTURING A SEMICONDUCTOR DEVICE

DECISION GRANTING PETITION

This is a decision on the petition, filed November 12, 2002, requesting, in effect, withdrawal of the Notice to File Incomplete Nonprovisional Application (Notice), mailed September 12, 2002. The petition will be treated under 37 CFR 1.53.

The petition under 37 CFR 1.53(e) is **GRANTED**.

The application was deposited on May 9, 2002. On September 12, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioners that the specification and the declaration appeared to have been omitted.

In response to the September 12, 2002 Notice, petitioners timely filed the present petition. Petitioners request clarification of the record because petitioners received a Notice (mail date July 8, 2002) stating that the application was complete for filing date purposes, but requiring submission of a number of items. Petitioners responded accordingly. Now petitioners have received a second Notice withdrawing the first Notice and indicating that a specification and a declaration are missing. As a result of these alleged omissions, the Office withdrew the May 9, 2002 filing date.

As petitioners state, the second Notice is inconsistent with the record.

The undersigned has reviewed the scanned version of the original application papers and has discovered that the Office mistakenly scanned a portion of the IDS, filed May 9, 2002, as the application papers. A review of the application file reveals that the original application papers: specification, claims, and drawings, are not present.

In addition to clarification of the record, petitioners request that the above-identified application be accorded a filing date of May 9, 2002 on the basis that a specification, claims and drawings were received in the Patent and Trademark Office (PTO) on May 9, 2002. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing May 9, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included description, claims, abstract, declaration, and

power of attorney. Because these items are absent **in toto**, this postcard is acceptable.[1]

The return postcard constitutes *prima facie* evidence that a description, claims, abstract, declaration, and power of attorney were filed on May 6, 2002. MPEP 503. Accordingly, the request is granted.

The $130.00 petition fee will be credited to deposit account No. 50-1417.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **May 6, 2002.** Petitioners assert that the application papers filed on May 6, 2002 are duplicates of the application papers filed in parent application No. 09/536,447. The undersigned has copied the specification, claims, abstract, drawing, and declaration filed in parent application no. 09/536,447. These papers will be used for processing purposes. The exhibits filed with the instant petition will not be used for processing purposes because the Office desires to maintain the integrity of the petition and the file.

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

[1] In the future, petitioner should submit a postcard that itemizes (including number of pages) all the components of a newly filed application. If petitioners follow this procedure, then petitioners are protected if a page of a component of an application is missing.

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GENERAL MOTORS CORPORATION
LEGAL STAFF, MAIL CODE 482-C23-B21
300 RENAISSANCE CENTER
P.O. BOX 300
DETROIT, MI 48265-3000

In re Application of	:	
Uma Arunkumar	:	
Application No. 10/141,431	:	DECISION ON PETITION
Filed: May 8, 2002	:	
Attorney Docket No. GP-302252 2760/73	:	

This is a decision on the petition under 37 CFR 1.182, filed, November 1, 2006, to change the name of inventor "Uma Arunkumar" to – Uma Arun --.

The petition is **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. However, in accordance with 37 CFR 1.34(a), the signature of Julia Church Dierker appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party on whose behalf she acts. A courtesy copy of this decision is being mailed to petitioner. However, if Ms. Dierker 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.

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204. Any questions concerning the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2612 for further prosecution.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

cc: JULIA CHURCH DIERKER
DIERKER & ASSOCIATES, P.C.
3331 WEST BIG BEAVER, SUITE 109
TROY, MI 48084-2813

The opinion in support of the decision being entered today was **not** written for publication and is **not** binding precedent of the Board.

Paper No. 20

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JAMES A. SIMMONS, Jr, RICHARD O. RATZEL,
and JOSEPH J. HARDING

Appeal No. 2004-0737
Application No. 10/141,443

HEARD: MAY 18, 2004

MAILED

MAY 25 2004

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Before COHEN, ABRAMS, and McQUADE, Administrative Patent Judges.
COHEN, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1 through 37 and 60. Claims 38 through 59 stand withdrawn. These claims constitute all of the claims in the application.

Appellants' invention pertains to a pad production and packaging system. A basic understanding of the invention can be

derived from a reading of exemplary claim 1, a copy of which appears in "Appendix A" of the main brief (Paper No. 11).

As evidence of obviousness, the examiner has applied the documents listed below:

Duryee et al. (Duryee)	4,890,753	Jan. 2, 1990
Harding et al. (Harding)	5,829,231	Nov. 3, 1998

The following rejection is before us for review.

Claims 1 through 37 and 60 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Harding in view of Duryee.

The full text of the examiner's rejection and response to the argument presented by appellants appears in the answer (Paper No. 12), while the complete statement of appellants' argument can be found in the main and reply briefs (Paper Nos. 11 and 13).

In the main brief (page 13), appellants group the claims as follows:

claims 1 through 5, 10, 11, 21 through 27, 32 through 34, 36, 37, and 60 stand or fall with claim 1;

claims 6 through 9, 14, 18, 19, 28 through 31, and 35 stand or fall with claim 6;

claims 12 through 16 stand or fall with claim 12; and

claims 17 and 20 do not stand of fall with any other claims.

In light of appellants' claim groupings and the argument advanced in the briefs, we would focus our attention below upon claims 1, 6, 12, 17, and 20, with the remaining claims standing or falling with the respective selected claim from its group. As it turns out, we need only address independent claim 1.

OPINION

In reaching our conclusion on the issues raised in this appeal, this panel of the board has carefully considered appellants' specification and claims,[1] the applied teachings,[2]

---

[1] Claim 60 depends from independent claim 1 and references "the plunger." However, a plunger is recited in claim 4, not claim 1. For purposes of this appeal, we shall understand claim 60 as being dependent from claim 4. During any further prosecution before the examiner, the noted antecedent basis deficiency for claim 60 should be addressed and resolved.

[2] In our evaluation of the applied prior art, we have considered all of the disclosure of each document for what it (continued...)

and the respective viewpoints of appellants and the examiner. As a consequence of our review, we make the determinations which follow.

We cannot sustain the obviousness rejection of appellants' claims based upon the prior art relied upon by the examiner. Our reasoning appears below.

Independent claim 1, the sole independent claim before us, reads as follows:

> A pad production and packaging system comprising:
>
> at least one pad producing machine for producing a dunnage[3] pad and supplying the dunnage pad to a pad insertion zone disposed above a pad support, the pad support having an opening over which the pad is supplied; and

---

[2](...continued)
Additionally, this panel of the board has taken into account not only the specific teachings, but also the inferences which one skilled in the art would reasonably have been expected to draw from the disclosure. See In re Preda, 401 F.2d 825, 826, 159 USPQ 342, 344 (CCPA 1968).

[3] The word "dunnage" is commonly known to refer to padding in a shipping container to protect contents against breakage. Webster's New Collegiate Dictionary, G. & C. Merriam Company, Springfield, Massachusetts, 1979.

> at least one pad insertion assembly for inserting the pad from the pad insertion zone through the opening and into a container disposed below the pad insertion zone.

We turn now to the examiner's evidence of obviousness.

The patent to Harding teaches an automated cushioning conversion system that fills a container or box with packaging (cushioning) material.[4] The patent indicates (column 7, line 63 to column 8, line 19) that the pad placement apparatus 16 of Fig. 8 may be embodied through any number of ways, as will be apparent to a person skilled in the art, and that, for example, a pad placement apparatus 16 may include a pick and place unit 140 for engaging a pad 14.

The Duryee reference discloses a leaflet insertion system for placing informational sheets or leaflets into the neck of a

[4] As explained in the patent (column 1, lines 34 through 45), while paper in sheet form could possibly be used as a protective packaging material, it is usually preferable to convert sheets of paper into a low density cushioning product (low density cushioning pads or dunnage).

pharmaceutical bottle having a cotton insert[5] compressing the leaflet. As acknowledged by the patentee (column 3, lines 37 through 44), the leaflet maintains the cotton under compression thereby preventing movement of pills contained within the bottle and protecting the pills from damage during shipping and other handling operations.

The difficulty we have with the examiner's rejection rationale is that we do not discern from the particular teachings of each applied reference that one having ordinary skill in the art would have been motivated to alter a placement apparatus 16 for a cushioning product, such as a pad, in the cushioning producing and filling system of Harding (Fig. 8) based upon an informational leaflet insertion system (the Duryee patent). Thus, based upon the prior art before us, the obviousness rejection of appellants' claim 1, and claims dependent therefrom, cannot be sustained.

---

[5] As indicated by the patentee (column 2, lines 29 through 33), the cotton 30 is already in place in the bottle prior to placement of a leaflet, the cotton being placed there in accordance with known systems, such as shown in U.S. Patent No. 2,895,269. In the latter patent, cotton batting C is positioned on batting supports 98 having an opening therebetween (Fig. 1) and above an opening in tube 38 (Fig. 3); the batting is subsequently inserted into the tube (Fig. 7) and then inserted into a container (Figs. 8 and 9).

REMAND TO THE EXAMINER

Relative to the claimed subject matter, the examiner should evaluate known prior art addressing filler material that protects container contents from damage during transportation, such as is disclosed in U.S. Patent No. 2,895,269 to Lasko et al. (see footnote 5, above) alone, and in combination with the applied Harding patent.

In summary, this panel of the board has not sustained the obviousness rejection on appeal and has remanded the application to the examiner to consider the content of the remand.

Appeal No. 2004-0737
Application No. 10/141,443

The decision of the examiner is reversed.

REVERSED AND REMANDED

IRWIN CHARLES COHEN Administrative Patent Judge	)
NEAL E. ABRAMS Administrative Patent Judge	) BOARD OF PATENT APPEALS AND INTERFERENCES
JOHN P McQUADE Administrative Patent Judge	)

ICC:psb

Appeal No. 2004-0737
Application No. 10/141,443

Paul R. Steffes
Nineteenth Floor
1621 Euclid Avenue
Cleveland, OH 44115-2191

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BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN, LLP
12400 WILSHIRE BOULEVARD
LOS ANGELES, CA 90025

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OFFICE OF PETITIONS

In re Application of	:	
Roberts, et al.	:	
Application No. 10/141,444	:	DECISION ON PETITION
Filed: May 7, 2002	:	TO WITHDRAW
Attorney Docket No. 6065.P004	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 9, 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 May 22, 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: GUERIN & RODRIGUEZ, LLP
5 MOUNT ROYAL AVENUE
MOUNT ROYAL OFFICE PARK
MARLBOROUGH, MA 01752

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MAILED Paper No. 4

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

Fernandez & Associates, LLP
PO Box D
Menlo Park CA 94026-6402

In re Application of:
Ben S. Wu et al
Application No. 10/141,450
Filed: May 7, 2002
For: **METHOD AND SYSTEM FOR SINGLE-CHIP CAMERA**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the Petition filed December 13, 2002 and Supplemental Petition filed February 1, 2003, under Manual of Patent Examination Procedure §708.02, II: Infringement.

A grantable petition under Manual of Patent Examination Procedure §708.02, II, must be accompanied by the required fee and a statement alleging:

(1) that there is an infringing device or product actually on the market or method in use;

(2) that a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and,

(3) that he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art. Further, 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 meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. After mailing, the application will be forwarded to the examiner for immediate handling.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAGNACHIP SEMICONDUCTOR, LTD.
ATTN: GUMJIN PARK
891 DAECHI-DONG, KANGNAM-GU
SEOUL KR KOREA, REPUBLIC OF

COPY MAILED

JUL 31 2006

OFFICE OF PETITIONS

In re Application of	:	
Wu, et al.	:	DECISION GRANTING PETITION
Application No. 10/141,450	:	UNDER 37 CFR 1.137(b)
Filed: May 7, 2002	:	
Atty. Dkt. No.: ICM-P016	:	

This decision is in response to the petition under 37 CFR 1.137(b), filed June 20, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned May 1, 2006 for failure to timely submit a proper reply to the Notice of Allowance (Notice) mailed January 30, 2006. The Notice set a three month statutory period of time for reply. Notice of Abandonment was mailed June 15, 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.

The requested change of correspondence address has been entered.

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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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DEC 23 2008

TECHNOLOGY CENTER 2100

Himanshu S. Amin
Amin, Turocy & Calvin, LLP
24th Floor, National City Center
1900 East Ninth Street
Cleveland Oh 44114

In re Application of: Johannes KLEIN, et al.
Application No. 10/141,464
Filed: May 08, 2002
For: CONTENT BASED MESSAGE DISPATCH

DECISION ON PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition, filed 10 May 2007 under 37 CFR § 1.181 requesting the holding of abandonment be withdrawn.

The petition is **DISMISSED**.

This application was held abandoned for applicant's failure to file a proper amended brief in response to the Notifications of Non-Compliant Appeal Brief mailed 21 August 2006 and 21 November 2006. A Notice of holding abandonment (PTOL-461 – Communication Re: Appeal) was mailed on 18 April 2007.

In support of the petition, petitioner asserts that (1) the 21 December 2006 Reply to Notification of Non-Compliant Appeal Brief (Exhibit B) is responsive to cure the perceived deficiencies indicated in the Notification of Non-Compliant Appeal Brief date 21 November 2006 (Exhibit C) and (2) applicants' representative made a good faith effort to remedy the purported short comings while at the same time maintaining that the language set forth in the subject claims, without more, constituted a concise summary and explanation of the claimed subject matter sufficient to comport with the requirements of 37 C.F.R. § 41.37(1)(c).

37 CFR § 41.37(c)(1)(v) states:

> A **concise explanation** of the subject matter defined in each of the independent claims involved in the appeal, which shall **refer to the specification by page and line number, and to the drawing, if any, by reference characters**. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

37 CFR § 41.37(d) states:

> If a brief is filed which does not comply with all the requirements of paragraph (c) of this section, appellant will be notified of the reasons for non-compliance and given a time period within which to file an amended brief. If appellant does not file an amended brief within the set time period, or **files an amended brief which does not overcome all the reasons for non-compliance stated in the notification, the appeal will stand dismissed**. [Emphasis added.]

Pursuant to 37 CFR § 41.37(c)(1)(v), the amended Brief filed 21 December 2006 does not provide a concise explanation of the subject matter defined in each of the independent claim involved in the appeal. The amended Brief filed 21 September 2006 recites, **at the end of each independent claim,** a listing of exemplary citations and figure elements to serve as the explanation of the claimed subject matter. The following listing is an example of a listing provided at the end of claim 1 "*See e.g., pg. 2, 11. 19-29, pg. 5, line 17 - pg. 7, line 3, pg. 10, line 17 - pg. 11, line 5, pg. 17, ll. 27-28; See generally Figs. 1 and 3, Items 110 and 104*". Furthermore, the appeal brief rely on the statement of "*The aforementioned means for limitations are identified as claim elements subject to the provisions of 35 U.S.C. § 112 ¶6. The corresponding structures are identified with reference to the specification and drawings in the parenthetical above corresponding to those claim limitations*" to serve as the **identification of the means plus function language for claims 27, 31, 34 and, 35.** Such citations and identification provided in amended Brief are neither concise nor describing the corresponding structure, material, or act for the means plus function language as set forth in 37 CFR § 41.37(c)(1)(v).

Pursuant to 37 CFR § 41.37(d), the appeal should have been dismissed after the first amended Brief filed 21 September 2006 had been held for non-compliance for the same reason(s) as stated in the Notification of Non-Compliant Appeal Brief mailed 21 August 2006. However, the examiner mailed out another Notification of Non-Compliant Appeal Brief on 21 September 2006 to notify applicant such a Non-Compliance Appeal Brief. Again, the second amended Brief filed 28 September 2006 failed to comply with the same requirement set forth in the two previously mailed Notifications of Non-Compliant Appeal Brief. It is well established that applicant has been given more than one opportunity to comply with the requirements as set forth in 37 CFR § 41.37(c). Further, it is pointed out that the application was in abandoned status after 29 October 2006 (this is seven months after receiving the Notice of Appeal). Thus, the appeal must be missed and the application is in a proper abandonment status. Therefore, applicant's assertion that the third amended Appeal Brief submitted on 12 December 2006 was in compliance with 37 CFR 41.37(c)(1)(v) and addressed all of the Examiner's comments in support of the Notification of Non-Compliant Appeal Brief is irrelevant.

For the above stated reasons, the petition is **DISMISSED**.

Any inquiry concerning this decision should be directed to Kim Huynh whose telephone number is (571) 272-4147.

Andrew Hirshfeld, Director
Technology Center 2100
Computer Architecture, Software, and
Information Security

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BINGHAM MCCUTCHEN LLP
THREE EMBARCADERO CENTER
SAN FRANCISCO, CA 94111-4067

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MAY 10 2007

OFFICE OF PETITIONS

In re Application of :
Derek Wichmann et al :
Application No. 10/141,485 :
Filed: May 7, 2002 :
Attorney Docket No. 268/294

ON PETITION

This is a decision on the petition, filed May 9, 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 12, 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 Irvin Dingle at (571) 272-3210.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

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

Copied from 11141485 on 06/05/2007

SPE: D. Wu

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/15/06

TO SPE OF : ART UNIT 2612

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/141,489 Patent No.: 6933848

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: OK to enter all changes as indicated in the Request.

SPE

2612
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

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MAR 2 8 2003

OFFICE OF PETITIONS

RYAN KROMHOLZ & MANION, S.C.
Post Office Box 26618
MILWAUKEE WI 53226

In re Application of
Addis, Milo, and Hnojewyi
Application No. 10/141,510
Filed: May 8, 2002
Attorney Docket No.: 1849.16102-B
For: SYSTEMS, METHODS, AND COMPOSITIONS FOR ACHIEVING CLOSURE OF VASCULAR PUNCTURE SITES

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed December 9, 2002, certificate of mailing date December 4, 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 instant petition was filed in response to the "Notice to File Missing Parts of Nonprovisional Application", mailed June 4, 2002, which indicated that a signed oath or declaration, filing fee, and surcharge were missing. The "Notice to File Missing Parts of Nonprovisional Application" set forth a shortened period for reply of two months. On December 9, 2002, petitioner filed the instant petition, a request for an extension of time within the fourth month, and an oath or declaration executed by inventors Addis and Hnojewyi.

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) and (2) as set forth above.

As to item (1), section 409.03(d) of the *Manual of Patent Examining Procedure* provides guidance as to what will suffice as sufficient proof that the non-signing inventor cannot be reached as is alleged in the instant petition. This section states, in pertinent part, as follows:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay Will not normally be accepted. Copies of documentary evidence such as Internet searches, certified mail, return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should

> be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts.

Petitioner has not indicated what efforts were made to locate inventor Milo. Petitioner only states that "diligent efforts" were made to locate inventor Milo. Petitioner must detail what those efforts encompassed so that it may be determined whether such efforts can be deemed "diligent." The statement should be authored by a person having first-hand knowledge of the efforts put forth, i.e. an employee of NeoMend, Inc.

As to item (2), the declaration filed December 9, 2002, is improper because it does not list the citizenship of inventor Milo. Petitioner must file a declaration that provides the citizenship for inventor Milo.

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

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

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

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

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
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Paper No. 8
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OFFICE OF PETITIONS

Ryan Kromholz & Manion, S.C.
PO Box 26618
Milwaukee, WI 53226

In re Application of	:	
Addis, Milo, and Hnojewyi	:	DECISION NOTING JOINDER
Application No. 10/141,510	:	OF INVENTOR
Filed : May 8, 2002	:	
Attorney Docket No. 1849.16102-B	:	
For: SYSTEMS, METHODS, AND COMPOSITIONS	:	
FOR ACHIEVING OF VASCULAR PUNCTURE	:	
SITES	:	

This is a decision on the communication filed September 22, 2003, titled "Response to Decision Refusing Status Under 37 CFR 1.47(a) and Remarks Accompanying Submission of Supplemental Declaration Under 37 CFR 1.67".

The above-cited application's status under 37 CFR 1.47(a) is revoked as of the mailing date of this decision because **joinder has occurred.**

The above-identified application was filed without a properly executed oath or declaration. "A Notice to File Missing Parts of Nonprovisional Application" (the "Notice") was mailed on June 4, 2002, which indicated that a proper declaration under 37 CFR 1.63 was missing. The Notice set forth a shortened period for reply of two months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). A first petition under 37 CFR 1.47(a) was filed on December 9, 2002, and dismissed by a decision mailed March 28, 2003. The decision of March 28, 2003, allowed an extendable period for reply of two months from the mailing date of the decision. On September 22, 2003, a communication responsive to the decision was along with a request for an extension of time within the fourth month, and an declaration executed by the joint inventors.

The communication filed September 22, 2003, indicates that inventor Milo, previously the nonsigning inventor, has agreed to join the prosecution of the application. A declaration executed by inventor Milo was found among the application papers. This declaration has been reviewed and found in compliance with 37 CFR 1.63.

In view of the joinder of the joint inventor, status under 37 CFR 1.47(a) is not necessary and will be revoked.

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

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

Kenya A. McLaughlin

Kenya A. McLaughlin
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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MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO, IL 60606

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MAY 3 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Kenneth A. Shaw, et al.	:	
Application No. 10/141,559	:	ON PETITION
Filed: May 8, 2002	:	
Attorney Docket No. 29968/38059	:	

This is a decision on the petition, filed May 25, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 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 (571) 272-3204.

The application is being referred to Technology Center AU 3651 for further processing of the request for continued examination under 37 CFR 1.114.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : January 25, 2010

TO SPE OF : ART UNIT 3766

SUBJECT : Request for Certificate of Correction for Appl. No.: 10141574 /Patent no. 7120488

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Magdalene Talley

Certificates of Correction Branch

571-272-0423

Thank You For Your Assistance

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

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

Comments: CHANGES DO NOT AFFECT THE SCOPE OF THE CLAIMS. PLEASE ENTER ALL CHANGES.

Carl H. Layno

CARL H. LAYNO
SUPERVISORY PATENT EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

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ORACLE INTERNATIONAL CORPORATION
c/o VISTA IP LAW GROUP LLP
1885 LUNDY AVENUE
SUITE 108
SAN FRANCISCO CA 95131

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In re Application of	:	
Wichmann et al.	:	
Application No.: 10/141583	:	DECISION ON
Filing or 371(c) Date: 05/07/2002	:	PETITION
Attorney Docket Number: OI7010822001	:	

This is a decision in response to the "Request for Refund," filed October 28, 2008. The petition is properly treated under 37 CFR 1.181(a).

This Petition is hereby **granted**.

Background

This application became abandoned for failure to timely pay the issue and publication fees on or before September 20, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed June 20, 2008. Accordingly, the date of abandonment of this application is September 21, 2008.

Applicant filed a Petition to Withdraw Holding of Abandonment no Fee Required Pursuant to 37 C.F.R. § 1.137(a) and MPEP 711.03(c)," on October 28, 2008, and included the fee for a petition under 37 CFR 1.137(b) (1620.00, instead of the fee for a petition under 37 CFR 1.137(a) (540.00).

Petition under 37 CFR 1.181

Applicant files the present petition and asserts that the fee for the petition under 37 CFR 1.137(b) was paid by mistake, and requests a refund of the difference between the fee for a petition under 37 CFR 1.137(a), and a petition under 37 CFR 1.137(b), or $1080.00.

Applicable Law, Rules and MPEP

The applicable statute, 35 USC 42(d), authorizes the Commissioner to refund "any fee paid by mistake or any amount paid in excess of that required." Thus, the patent and Trademark Office

(PTO) may refund: (1) a fee paid when no fee is required (*i.e.*, a fee paid by mistake), or (2) any fee paid in excess of the amount of the fee that is required. See Ex Parte Grady, 59 USPQ 276, 277 (Comm'r Pats. 1943)(the statutory authorization for the refund of fees is applicable only to a mistake relating to the fee payment). In the situation in which an applicant or patentee takes an action "by mistake" (e.g., files an application "by mistake"), the submission of fees required to take that action (e.g., a filing fee submitted with such application) is not a "fee paid by mistake" within the meaning of 35 U.S.C. § 42(d).

Here, Applicant filed a petition under 37 CFR 1.137(a), the fee for which is $540.00. As such, Applicant's action in filing the petition was not by mistake; however, the fees submitted were in excess of that required. As such, a refund of the excess petition fee is appropriate.

A Decision on the petition under 37 CFR 1.137(a) is being mailed under separate cover.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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c/o VISTA IP LAW GROUP LLP
1885 LUNDY AVENUE
SUITE 108
SAN FRANCISCO CA 95131

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DEC 10 2008

In re Application of	:	
Wichmann et al.	:	
Application No.: 10/141583	:	DECISION ON
Filing or 371(c) Date: 05/07/2002	:	PETITION
Attorney Docket Number: OI7010822001	:	

This is a decision in response to the "Petition to Withdraw Holding of Abandonment no Fee Required Pursuant to 37 C.F.R. § 1.137(a) and MPEP 711.03(c)," filed October 28, 2008.

This Petition is hereby **dismissed**.

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

Background

This application became abandoned for failure to timely pay the issue and publication fees on or before September 20, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed June 20, 2008. Accordingly, the date of abandonment of this application is September 21, 2008.

A Grantable Petition Under 37 CFR 1.137(a)

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: **(1)** the required reply (unless previously filed), which may met by the filing of a notice of appeal and the requisite fee; a continuing application; an amendment or request for reconsideration which *prima facie* places the application in condition for allowance, or a first or second submission under 37 CFR 1.129(a) if the application has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 USC 120, 121 and 365(c); **(2)** the petition fee as set forth in 37 CFR 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 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). Applicant lacks item (**3**).

As to item (**3**), a showing of non-receipt of an Office communication may form the basis for revival of an application based upon unavoidable delay.

Applicable Law, Rules and MPEP

The MPEP 711.03(c)A, provides in relevant part:

> The showing required to establish nonreceipt of an Office communication must include
>
> (1) a statement from the practitioner stating that the Office communication was not received by the practitioner at the correspondence address of record. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> (2) a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.
>
> (3) a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

MPEP 711.03(c)

Analysis and conclusion

A review of the copies of the docket sheet for the present application, and of the master docket report reveal that the copies are illegible images. The copies are grainy and the entries are illegible and when enlarged become skewed and more illegible. As such, it is not possible for this Office to verify that the copies of the docket records show that the Notice was not received.

The petition is dismissed without prejudice. Applicant should file a Request for Reconsideration of Petition and include legible copies of the docket records.

A Decision on the Refund Request is being mailed under separate cover.

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

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

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

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

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ORACLE INTERNATIONAL CORPORATION
c/o VISTA IP LAW GROUP LLP
1885 LUNDY AVENUE
SUITE 108
SAN FRANCISCO CA 95131

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MAR 0 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Wichmann et al.	:	
Application No.: 10/141583	:	DECISION ON
Filing or 371(c) Date: 05/07/2002	:	PETITION
Attorney Docket Number: OI7010822001	:	

This is a decision in response to the "Renewed Petition to Withdraw Holding of Abandonment no Fee Required Pursuant to 37 C.F.R. § 1.137(a) and MPEP 711.03(c)," filed February 10, 2009.

This Petition is hereby **dismissed**.

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

Background

This application became abandoned for failure to timely pay the issue and publication fees on or before September 20, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed June 20, 2008. Accordingly, the date of abandonment of this application is September 21, 2008.

Applicant filed a petition on October 28, 2008, wherein applicant alleged that the delay in payment of the issue and publication fees on or before September 20, 2008 was unavoidable because Applicant never received a copy of the Notice of Allowance and Fee(s) Due, mailed June 20, 2008. In support of this assertion, Applicant filed a copy of the docket sheets for the present application. A review of the copies of the docket sheet for the present application, and of the master docket report revealed that the copies were illegible images. The copies were grainy and the entries were illegible and when enlarged became skewed and more illegible. As such, it was not possible for this Office to verify that the copies of the docket records showed that the Notice was not received.

The petition was dismissed without prejudice. The decision noted that the "copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm." Decision at p.2. Applicant was advised to file a Request for Reconsideration of Petition and include legible copies of the docket records.

The present renewed petition

Applicant files the present renewed petition and includes "a copy of the docket sheet for this application," and "a copy of the master docket report for the present application," (Exhibit C). Declaration of Peter C. Mei at p.2.

A Grantable Petition Under 37 CFR 1.137(a)

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: **(1)** the required reply (unless previously filed), which may met by the filing of a notice of appeal and the requisite fee; a continuing application; an amendment or request for reconsideration which *prima facie* places the application in condition for allowance, or a first or second submission under 37 CFR 1.129(a) if the application has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 USC 120, 121 and 365(c); **(2)** the petition fee as set forth in 37 CFR 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 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). Applicant lacks item **(3)**.

As to item **(3)**, a showing of non-receipt of an Office communication may form the basis for revival of an application based upon unavoidable delay.

Applicable Law, Rules and MPEP

The MPEP 711.03(c)A, provides in relevant part:

> The showing required to establish nonreceipt of an Office communication must include
>
> (1) a statement from the practitioner stating that the Office communication was not received by the practitioner at the correspondence address of record. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> (2) a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.

> (3) a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

MPEP 711.03(c)

Analysis and conclusion

Regrettably, the petition again is not grantable at this time. The Office requirements for granting a petition to revive an application based upon non-receipt of an Office communication requires, in addition to a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO, a copy of the master docket report for the firm showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The petition is dismissed without prejudice. Applicant should file a Request for Reconsideration of Petition and include either a copy of the master docket report for the firm showing all replies docketed for a date that is three months from the mail date of the Notice, or if no such master docket exists, practitioner should so state and provide other evidence as listed above.

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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1885 LUNDY AVENUE
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APR 23 2009

OFFICE OF PETITIONS

In re Application of	:	
Wichmann et al.	:	
Application No.: 10/141583	:	DECISION ON
Filing or 371(c) Date: 05/07/2002	:	PETITION
Attorney Docket Number: OI7010822001	:	

This is a decision in response to the "Renewed Petition to Withdraw Holding of Abandonment no Fee Required Pursuant to 37 C.F.R. § 1.137(a) and MPEP 711.03(c)," filed April 3, 2009.

This Petition is hereby **granted**.

This application became abandoned for failure to timely pay the issue and publication fees on or before September 20, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed June 20, 2008. Accordingly, the date of abandonment of this application is September 21, 2008.

Petitions to revive the application filed under 37 CFR 1.137(a) on October 28, 2008 and February 10, 2009, were dismissed in Decisions mailed December 10, 2008 and March 2, 2009 respectively, for failing to meet the requirements of a grantable petition.

The renewed petition satisfies the requirements of 37 CFR 1.137(a) in that Petitioner has supplied (1) the required reply (previously submitted on August 12, 2008); (2) the petition fee; and (3) a showing to the satisfaction of the Director that the entire delay was unavoidable.

The application will be referred to the Office of Data Management for processing into a patent.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **5-10-10**

TO SPE OF : ART UNIT **2453**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10141583** Patent No.: **7548957**

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.

/LW/

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

Comments: _____

/JOSEPH THOMAS/
SPE

2453
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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KATTEN MUCHIN ZAVIS ROSENMAN
575 MADISON AVENUE
NEW YORK, NY 10022-2585

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OFFICE OF PETITIONS

In re Application of	:	
Takeshi Okazawa et al	:	
Application No. 10/141,602	:	DECISION ON PETITION
Filed: May 8, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. NEC 19.707	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 1, 2004, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED as moot**.

This application issued as Patent No. 6,812,537 on November 2, 2004. Unfortunately, the instant petition was not received within sufficient time to avert the issuance of the above-identified application into a patent.

Petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**.

Since this application has issued, the concurrently filed request for continued examination (RCE) is improper and will not be processed. No fee has been assessed to either the RCE or the petition to withdraw from issue.

The Office sincerely apologizes for any inconvenience caused petitioner in this matter.

The Information Disclosure Statement has been placed in the file of the above-identified application without further consideration. See 37 CFR 1.97(i).

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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OCT 20 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

AT&T Corp.
Room 2A-207
One AT&T Way
Bedminster, NJ 07921

In re Application of
Barin G. Haskell, et al.
Application No. 10/141,607
Filed: May 9, 2002
For: **VIDEO OBJECTS CODED BY KEYREGIONS**

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is in response to the Petition for Withdrawal of Abandonment filed November 19, 2004, pursuant to 37 C.F.R. § 1.181(a). No fee is required.

On May 3, 2004, a Notice of Allowance and Issue Fee Due was mailed in the subject application. The issue fee was not received. On September 20, 2004, a Notice of Abandonment was mailed,

Petitioner alleges that the Notice of Allowance of May 3, 2004 was not received. In support of this allegation, Petitioner provides docket records as evidence of non-receipt of the Notice of Allowance mailed May 3, 2004.

In the absence of any irregularity in the mailing of an Office communication, there is a strong presumption that the Office communication was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office communication was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

A review of the records indicates that the Notice of Allowance was properly mailed to the applicant at the correspondence address at the time of mailing. Thus, there was no irregularity in mailing the Office action on the part of the U.S. patent and Trademark Office.

The petitioner has not made a sufficient showing of non-receipt of the Notice of Allowance. There is no evidence of record showing that the correspondence address was changed to that listed for applicant in the Revocation and Power of Attorney filed with the instant petition. Petitioner has not made showing of non-receipt of the Notice of Allowance at the correspondence address of record at the time of mailing of the Notice of Allowance. At the time of mailing the correspondence address was that of Customer Number 23838 as supplied by applicant in the Transmittal Letter of May 9, 2002.

Therefore, for the above reasons, the petition is **DENIED.**

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision and include the deficiencies outlined above. Petitioner may wish to consider petitioning under 37 CFR 137(b) for reviving an unintentionally abandoned application. The Revocation and Power of Attorney filed on even date with the petition has been entered. Future correspondence will be sent to the address listed for Customer Number 40271.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

CC: The Law Office of Thomas M. Isaacson
850 Lindy Lane
Huntingtown, MD 20639

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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THE LAW OFFICE OF THOMAS M. ISAACSON
850 LINDY LANE
HUNTINGTOWN MD 20639

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OFFICE OF PETITIONS

In re Application of Haskell et al Application No.10/141,607 Filed: May 9, 2002 Attorney Docket Number: 2685/5960 Title of Invention: Video Objects Coded By Keyregions	: : : : : : :	ON PETITION

This is a decision on the petition filed December 8, 2005, under 37 CFR 1.137(b) to revive the above-identified application.

This application became abandoned for failure to timely submit the issue fee, as required by the Notice of Allowance and Fee (s) Due which was mailed May 3, 2004. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on August 4, 2005. A Notice of Abandonment was mailed on September 20, 2004.

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

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

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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CAMPBELL & FLORES LLP
4370 LA JOLLA VILLAGE DRIVE
7TH FLOOR
SAN DIEGO CA 92122

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APR 2 2 2004

OFFICE OF PETITIONS

Applicant: Reed
Appl. No.: 10/141,618
Filing Date: May 7, 2002
Title: METHODS FOR DETERMINING THE PROGNOSIS FOR CANCER PATIENTS USING TUCAN
Attorney Docket No.: 66654-722 (P-LJ 5254)
Pub. No.: US 2003/0165887 A1
Pub. Date: September 4, 2003

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was received on November 7, 2003.

The request is DISMISSED.

The instant request is that the patent application publication be republished because Table 1 is incorrectly formatted with respect to the columns. Applicant argues that the columns in the application are formatted such that the entries at the bottom of the first column on a page continue in a second column on that page, however the publication by the Office is formatted such that entries at the bottom of the first column on a page continue in the first column of the subsequent page.

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 application was published as originally filed by applicant with the columns formatted such that entries at the bottom of the first column on a page continue in the first column of the subsequent page. There is not a clear indication in the Office record that the columns in the application are formatted such that the entries at the bottom of the first column on a page continue in a second column on that page, as argued by applicant, thus it is unclear how the Office was supposed to publish the application in this format. There is not a material mistake in the

[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).

publication, which is apparent from the Office record. Even if there were an indication that the columns should be formatted as argued by applicant, this would not be a material mistake. A "material mistake" must 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. Table 1 is a listing of known types of cancer, and the listing is understandable to contain a listing of known types of cancer.

Applicant's request for a corrected patent application publication on November 7, 2003, may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the application." See 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

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(a), 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: 703-872-9306

The application will be examined 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

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.
10/141,632	05/07/2002	Haim Feldman	6637 USA/PDC/WF/OR	8322

32588 7590 05/07/2004

APPLIED MATERIALS, INC.
2881 SCOTT BLVD. M/S 2061
SANTA CLARA, CA 95050

EXAMINER
TURNER, SAMUEL A

ART UNIT	PAPER NUMBER
2877	

DATE MAILED: 05/07/2004

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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10141632			

EXAMINER

ART UNIT	PAPER NUMBER

DATE MAILED:

NOTICE OF ABANDONMENT

This application is abandoned in view of:

☐ Applicant's failure to timely file a proper reply to the Office letter mailed on _____.

☐ A reply (with Certificate of Mailing or Transmission of _____) was received on _____ which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.

☐ A proposed reply was received on _____ , but it does not constitute a proper reply under 37 CFR 1.113 to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).

☐ A reply was received on _____ , but it does not constitute a proper reply, or a *bona fide* attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in the last box below).

☐ No reply has been received.

☒ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).

☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85)(or Notice of Publication Fee Due).

☐ The submitted fee of $_____ is insufficient. A balance of $ _____ is due.
The issue fee by 37 CFR 1.18 is $_____ . The publication fee, if required, by 37 CFR 1.18(d) is $_____.

☒ The issue fee and publication fee, if applicable, have not been received.

☐ Applicant's failure to timely file corrrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTOL-37).

☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.

☐ No corrected drawings have been received.

☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all the applicants.

☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon filing of a continuing application.

☐ The decision by the Board of Patent Appeals and Interferences rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

☐ The reason(s) below: _____

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

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APPLIED MATERIALS, INC.
2881 SCOTT BLVD. M/S 2061
SANTA CLARA, CA 95050

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APR 1 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Feldman, Haim	:	
Application No. 10/141,632	:	ON PETITION
Filed: May 7, 2002	:	
Attorney Docket No. 6637 USA/PDC/WF/OR	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 29, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed December 23, 2003, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 24, 2004.

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

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
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHED SHEETS

~~To: Examiner Adhami, fax # 571-273-8615~~

~~From: Rob Jensen (Wolf Greenfield), tel 617.646.8271~~

~~Re: 10/141,662; MI103.70117US00~~

~~Examiner Adhami~~,

~~Here are the proposed~~ changes to claims 1, 8 and 15 for the Examiner's amendment.

1. (Currently Amended) A method for managing power consumption of a computing device having a network interface module for transmitting and receiving network communication data, the computing device comprising a storage area for storing accumulated network communication data, the method comprising:

at least one processor analyzing traffic statistics data to derive at least one parameter of a model that establishes a relationship between idle time and a quantity of delayed traffic data that is predicted to accumulate in the storage area as a function of time when the network interface module is put in a low-power state in which the network interface module stops transmitting network communication data; and

the at least one processor calculating a target idle time for the network interface module based on the model with the at least one parameter, wherein putting the network interface module in the low-power state for the target idle time is predicted by the model to result in a non-zero quantity of delayed traffic data in the storage area that is less than or equal to a pre-selected threshold, the threshold being selected based on the size of the storage area such that the quantity of delayed traffic data does not exceed the size of the storage area;

wherein the model comprises at least one equation that determines the idle time using the threshold, wherein the target idle time is calculated using the at least one equation and using the at least one parameter, and wherein the at least one parameter of the model is a prediction regarding future traffic through the network interface module.

2. (Previously Presented) A method as in claim 1, further including:

determining that the device is connected to an access point of an infrastructure network; and

switching the network interface module into the low-power state for the target idle time.

3. (Previously Presented) A method as in claim 1, wherein the computing device is a wireless device, and further including:

determining that the wireless device is connected to an ad hoc wireless network;

broadcasting the target idle time to other wireless devices in the ad hoc wireless network;

receiving target idle times calculated and broadcast by the other wireless devices in the ad hoc wireless network;

selecting a smallest one of the broadcast target idle times as a common idle time for the wireless devices in the ad hoc wireless network; and

switching the network interface module into the low-power state for the common idle time.

4. (Previously presented) A method as in claim 1, wherein the at least one parameter of the model includes an average inter-arrival rate and an average service rate, the average service rate being the average rate at which data is transmitted by the network interface module, and wherein the step of analyzing the traffic statistics data includes:

retrieving the traffic statistics data including a set of historical inter-arrival rates for data received by the network interface module, a set of historical service rates for data transmitted by the network interface module, and a set of numbers representing a quantity of traffic data in the system queue;

modeling the historical inter-arrival rates using a first distribution function, and the historical service rates using a second distribution function; and

deriving the average inter-arrival rate and the average service rate based on the first and second distribution functions, respectively.

5. (Original) A method as in claim 4, further including updating the traffic statistics data by collecting a current inter-arrival rate and a current service rate.

6. (Original) The method of claim 4, wherein the first distribution function is an exponential distribution function

7. (Original) A method as in claim 4, wherein the second distribution function is a Pareto distribution function.

8. (Currently Amended) A computer-readable storage medium having computer-executable instructions for performing steps for managing power consumption of a computing device having a network interface module for transmitting and receiving network communication data, the computing device comprising a storage area for storing accumulated network communication data, the steps comprising:

analyzing traffic statistics data to derive at least one parameter of a model that establishes a relationship between idle time and a quantity of delayed traffic data that is predicted to accumulate in the storage area as a function of time when the network interface module is put in a low-power state in which the network interface module stops transmitting network communication data; and

calculating a target idle time for the network interface module based on the model with the at least one parameter, wherein putting the network interface module in the low-power state for the target idle time is predicted by the model to result in a non-zero quantity of delayed traffic data in the storage area that is less than or equal to a pre-selected threshold, the threshold being selected based on the size of the storage area such that the quantity of delayed traffic data does not exceed the size of the storage area;

wherein the model comprises at least one equation that determines the idle time using the threshold, wherein the target idle time is calculate using the at least one equation and using the at least one parameter, and wherein the at least one parameter of the model is a prediction regarding future traffic through the network interface module.

9. (Previously Presented) A computer-readable medium as in claim 8, having further computer-executable instructions for performing the steps of:

determining that the device is connected to an access point of an infrastructure network; and

switching the network interface module into the low-power state for the target idle time.

10. (Previously Presented) A computer-readable medium as in claim 8, wherein the computing device is a wireless device, and having further computer-executable instructions for performing the steps of:

determining that the wireless device is connected to an ad hoc wireless network;

broadcasting the target idle time to other wireless devices in the ad hoc wireless network;

receiving target idle times calculated and broadcast by the other wireless devices in the ad hoc wireless network;

selecting a smallest one of the broadcast target idle times as a common idle time for the wireless devices in the ad hoc wireless network; and

switching the network interface module into the low-power state for the common idle time.

11. (Previously presented) A computer-readable medium as in claim 8, wherein the at least one parameter of the model includes an average inter-arrival rate and an average service rate, the average service rate being the average rate at which data is transmitted by the network interface module, and wherein the step of analyzing the traffic statistics data includes:

retrieving the traffic statistics data including a set of historical inter-arrival rates for data received by the network interface module, a set of historical service rates for data transmitted by the network interface module, and a set of numbers representing a quantity of traffic data in the system queue;

modeling the historical inter-arrival rates using a first distribution function, and the historical service rates using a second distribution function; and

deriving the average inter-arrival rate and the average service rate based on the first and second distribution functions, respectively.

12. (Original) A computer-readable medium as in claim 11, having further computer-executable instructions for performing the step of updating the traffic statistics data by collecting a current inter-arrival rate and a current service rate.

13. (Original) A computer-readable medium as in claim 11, wherein the first distribution function is an exponential distribution function

14. (Original) A computer-readable medium as in claim 11, wherein the second distribution function is a Pareto distribution function.

15. (Currently Amended) A ~~power management system for use in a~~ computing device ~~having~~, comprising: ~~a network interface module for transmitting and receiving network communications, the computing device comprising a storage area for storing accumulated network communication data, the power management system comprising:~~

a network interface module for transmitting and receiving network communications;

a storage area for storing accumulated network communication data; and

a power management system comprising:

a traffic statistics database for storing traffic statistics data including a set of historical inter-arrival rates for data received by the network interface module and a set of historical service rates for data transmitted by the network interface module; and

a power manager for selectively setting the network interface module into a low-power state, the power manager having a stochastic decider for analyzing the traffic statistics data to derive an average inter-arrival rate and an average service rate and calculating a target idle time for the network interface module based on the average inter-arrival and service rates, the average inter-arrival rate being the average rate at which data is received at the network interface module and the average service rate being the average rate at which data is transmitted by the network interface module, the target idle time being predicted to result in a quantity of delayed network traffic data in the storage area that is less than or equal to a pre-selected threshold when the network interface module is put in the low-power state for the target idle time, the quantity of delayed traffic data being non-zero, the threshold being selected based on the size of the storage area such that the quantity of delayed traffic data does not exceed the size of the storage area.

16. (Currently Amended) A ~~power management system~~ computing device as in claim 15, wherein the power manager is programmed to switch the network interface module into the

low-power state for the target idle time when the computing device is connected to an access point of an infrastructure network.

17. (Currently Amended) A ~~power management system~~ computing device as in claim 15, wherein the computing device is a wireless device, wherein the power manager is programmed to perform the steps of:

determining that the wireless device is connected to an ad hoc wireless network;

broadcasting the target idle time to other wireless devices in the ad hoc wireless network;

receiving target idle times calculated and broadcast by the other wireless devices in the ad hoc wireless network;

selecting a smallest one of the broadcast target idle times as a common idle time for the wireless devices in the ad hoc wireless network; and

switching the network interface module into the low-power state for the common idle time.

18. (Currently Amended) A ~~power management system~~ computing device as in claim 15, wherein the stochastic decider is programmed to perform~~ed~~ the steps of:

modeling the historical inter-arrival rates using a first distribution function, and the historical service rates using a second distribution function; and

deriving the average inter-arrival rate and the average service rate based on the first and second distribution functions, respectively.

19. (Currently Amended) A ~~power management system~~ computing device as in claim 18, wherein the first distribution function is an exponential distribution function

20. (Currently Amended) A ~~power management system~~ computing device as in claim 18, wherein the second distribution function is a Pareto distribution function.

21. (Currently Amended) A ~~power management system~~ computing device as in claim 18, wherein the power manager is further programmed to update the traffic statistics data by collecting a current inter-arrival rate and a current service rate.

22. (Previously presented) A computing device comprising:

a power source for powering the computing device;

a network interface module for transmitting and receiving network communications;

a storage area for storing accumulated network communication data;

a traffic statistics database for storing traffic statistics data including a set of historical inter-arrival rates for data received by the network interface module and a set of historical service rates for data transmitted by the network interface module; and

a power manager for selectively setting the network interface module into a low-power state, the power manager having a stochastic decider for analyzing the traffic statistics data to derive an average inter-arrival rate and an average service rate and calculating a target idle time for the network interface module based on the average inter-arrival and service rates, the average inter-arrival rate being the average rate at which data is received at the network interface module and the average service rate being the average rate at which data is transmitted by the network interface module, the target idle time being predicted to result in a quantity of delayed network traffic data in the storage area that is less than or equal to a pre-selected threshold when the network interface module is put in the low-power state for the target idle time, the quantity of delayed traffic data being non-zero, the threshold being selected based on the size of the storage area such that the quantity of delayed traffic data does not exceed the size of the storage area.

23. (Previously Presented) A computing device as in claim 22, wherein the computing device is a mobile device, wherein the power source includes a battery pack.

24. (Previously Presented) A computing device as in claim 22, wherein the power source is a fuel cell.

25. (Previously Presented) A computing device as in claim 22, wherein the power manager is programmed to switch the network interface module into the low-power state for the target idle time when the computing device is connected to an access point of an infrastructure network.

26. (Previously Presented) A computing device as in claim 22, wherein the computing device is a wireless device, wherein the power manager is programmed to perform the steps of:

determining that the wireless device is connected to an ad hoc wireless network;

broadcasting the target idle time to other wireless devices in the ad hoc wireless network;

receiving target idle times calculated and broadcast by the other wireless devices in the ad hoc wireless network;

selecting a smallest one of the broadcast target idle times as a common idle time for the wireless devices in the ad hoc wireless network; and

switching the network interface module into the low-power state for the common idle time.

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ALEXANDRIA, VA 22313-1450
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MAINE & ASMUS
100 MAIN STREET
P O BOX 3445
NASHUA, NH 03061-3445

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DEC 27 2005

OFFICE OF PETITIONS

In re Application of	:	
Aldean N. Khater	:	
Application No. 10/141,669	:	ON
Filed: May 9, 2002	PETITION	
Attorney Docket No. KAN001-US	:	
	:	

This is a decision on the petition under 37 CFR 1.182, filed august 22, 2005, to change the name of the named inventor.

The petition is **GRANTED**.

The name of the named inventor has been changed from Ali M. Khater to **Aldean N. Khater**.

A copy of the corrected filing receipt is enclosed.

This matter is being referred to Technology Center AU 3621 to await applicant's reply to the final Office action mailed November 7, 2005.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3220.

Wan Laymon
Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Sergey Gazenko
1106 Parkside Ln.
Mason OH 45040

COPY MAILED
NOV 17 2006
OFFICE OF PETITIONS

In re Application of
Gazenko et al.
Application No. 10/141,677
Filed: May 9, 2002
Title of Invention: MICROMETHOD AND DEVICE FOR RAPID DETECTION, ENUMERATION AND IDENTIFICATION OF ENTITIES

ON PETITION

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

This above-identified application became abandoned for failure to timely file a proper reply to a final Office Action pursuant to 37 CFR §1.113. The final Office Action was mailed on July 27, 2005 and set a three (3) month shortened statutory period for reply. An amendment was submitted on October 27, 2005. In response to the amendment an Advisory Action was mailed on June 1, 2006 indicating the amendment submitted on October 27, 2005 did not place the application in condition for allowance. Accordingly, this application became abandoned on October 28, 2005. This decision precedes the mailing of a Notice of Abandonment.

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). In the event that such an inquiry has not been made, Petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR §1.137(b) was unintentional, petitioner must notify the Office.

This petition is hereby **Granted**.

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.

The Request for Continued Examination (RCE) and the amendment submitted with the instant petition will be forwarded to Technology Center 1600 for further processing.

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Robert A. Diaz
Eckert Seamans Cherin & Mellott, LLC
600 Grant Street, 44th Street
Pittsburgh, PA 15219

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

WORLDCOM, INC.
TECHNOLOGY LAW DEPT.
1133 19TH STREET, N.W.
WASHINGTON, DC 20036

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APR 15 2003

OFFICE OF PETITIONS

In re Application of
Pan
Application No. 10/141,693
Filed: May 8, 2002
Attorney Docket No. RIC01037

ON PETITION

This decision concerns the August 26, 2002 petition under 37 CFR 1.47(b).

The petition is **DISMISSED.**

The sole inventor named in the above-referenced application is Jie Pan ("Pan"), who at one point worked for MCI WorldCom, Inc. ("MCI").

The instant petition, filed in response to a June 21, 2002 Notice to File Missing Parts of Nonprovisional Application, asserts that Pan has assigned the claimed invention, through a March 28, 2000 employment agreement ("Agreement"), to MCI (now WorldCom), but refuses to sign the declaration. The petition in essence requests that WorldCom be allowed to file this application on behalf of, and as agent for, Pan.

Under 37 CFR 1.47(b), WorldCom may file this application on behalf of, and as agent for, Pan, provided it can be **shown** that:

(1) Pan, made (conceived; reduced to practice) the claimed invention in this application while employed by MCI/WorldCom;[1]

(2) Pan has assigned, or has agreed in writing to assign, the claimed invention to MCI/WorldCom; or, MCI/WorldCom otherwise has sufficient proprietary interest in the instant application;[2]

(3) Pan has refused to sign the application declaration;

(4) Filing of this application by WorldCom is necessary to preserve the rights of the parties or to prevent irreparable damages.[3]

---

[1] This may be proved, e.g., through a **statement of a person having firsthand knowledge of the fact that the claimed invention was made by Pan while employed by MCI/WorldCom**. See MPEP section 409.03(f) (Aug. 2001).

[2] See also MPEP sections 409.03(b), (f) (Aug. 2001).

[3] 37 CFR 1.47(b); MPEP section 409.03(g) (Aug. 2001).

The instant application was filed more than 2 years after Pan had executed the Agreement. The petition neither indicates when Pan was employed by MCI/WorldCom, nor includes any evidence showing that the claimed invention was made (conceived; reduced to practice) by Pan while employed by MCI/WorldCom.

Moreover, the Agreement, a copy of which is enclosed with the petition, is of a general nature and makes no reference to the claimed invention through either a description of the invention, the title of the invention, or the application serial number.[4]

Therefore, the petition fails to demonstrate, as required by 37 CFR 1.47(b), that Pan has assigned, or has agreed to assign, the claimed invention to MCI/WorldCom; or that MCI/WorldCom otherwise has acquired sufficient proprietary interest in this application to justify its filing of the application on behalf of, and as agent for, Pan.

The petition is thus dismissed.[5]

To prevent abandonment of this application, **EITHER** of the following must be filed within **TWO MONTHS** of the mailing date of this decision:[6]

(I) An oath/declaration in compliance with 37 CFR 1.63, signed by Pan;[7]

OR,

(II) A renewed §1.47(b) petition, proving that (A) Pan made the claimed invention in this application while employed by MCI/WorldCom; or, (B) If Pan did not make the claimed invention during his tenure at MCI/WorldCom, he has, nevertheless, assigned or agreed in writing to assign the invention to MCI/WorldCom; or, MCI/WorldCom otherwise has acquired sufficient proprietary interest in the invention to justify its filing of the application on behalf of, and as agent for, Pan.

---

[4] 2nd paragraph of Agreement: "Inventions. I agree that, for the purpose of this Agreement, the word 'inventions' shall mean **any** original works of authorship or techniques . . . that are created or developed by me . . . resulting from or related to employment assignments or pertaining to any actual or anticipated Company work or research." (emphasis added)

4th paragraph of Agreement: "I agree, **during my employment**, promptly to disclose to the Company **any** inventions which I conceive or reduce to practice . . . I . . . hereby assign to the Company my entire right and title in **all** inventions . . .." (emphasis added)

[5] Page 2, last paragraph, of the petition indicates 2 other inventors were available.

[6] Unless proper extension of time under 37 CFR 1.136(a) is obtained. See 37 CFR 1.53(f) (If an application which has been accorded a filing date . . . does not include an oath or declaration by the applicant pursuant to §1.63 . . . , applicant will be notified and given a period of time within which to . . . file an oath or declaration . . . and pay the surcharge required by §1.16(e) to avoid abandonment.).

[7] **Submit directly to the Office of Initial Patent Examination, along with a copy of this decision.**

The renewed §1.47(b) petition (no fee) may be addressed as follows:

by mail/by hand:	Commissioner for Patents, PTO Attn: Office of Petitions Crystal Plaza Four, Suite CP4-3C23 2201 South Clark Place Arlington, VA 22202
by fax:	(703) 308-6916 Attn: Office of Petitions

Receipt of the $130 petition fee is acknowledged.

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

RC Tang
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 9

WORLDCOM, INC.
TECHNOLOGY LAW DEPT.
1133 19TH STREET, N.W.
WASHINGTON, DC 20036

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JUL 0 7 2003

OFFICE OF PETITIONS

In re Application of Pan Application No. 10/141,693 Filed: May 8, 2002 Attorney Docket No. RIC01037	: : : : :	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(b)

This decision concerns the June 12, 2003 renewed petition under 37 CFR 1.47(b).

The petition is **GRANTED.**

The previous petition under 37 CFR 1.47(b), filed on August 26, 2002, was dismissed on April 15, 2003 for lacking the requisite showing that the invention claimed in this application had been made by the sole inventor named in the application, Jie Pan, during his employment at MCI/WorldCom (now WorldCom).

The instant renewed petition is accompanied by an affidavit by Willis Mason, an employee of MCI/WorldCom, stating that based on his firsthand knowledge, Jie Pan made the instant claimed invention while employed by MCI/WorldCom. This affidavit in conjunction with the "Confidentiality and Non-Solicitation Agreement" submitted on August 26, 2002 supports the assertion that WorldCom, the successor-in-interest to MCI/WorldCom, is also the assignee of the entire interest for the instant application. The petition is thus granted.

The "Declaration and Power of Attorney for Utility Patent Application" executed by an officer of WorldCom and filed on August 26, 2002 is hereby accepted. The application is now complete.

As provided in 37 CFR 1.47(c), the Office will forward notice of the filing of this application to Jie Pan at his last known address indicated in the August 26, 2002 petition:

2217 Windy Ridge Court
Plano, TX 75025

Notice of the filing of this application will also be published in the *Official Gazette*.

The application file is being forwarded to Technology Center 2600 for examination in due course.

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

RC Tang
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Jie Pan
2217 Windy Ridge Court
Plano, TX 75025

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JUL 0 7 2003

OFFICE OF PETITIONS

In re Application of
Pan
Application No. 10/141,693
Filed: May 8, 2002
For: SYSTEMS AND METHODS FOR PERFORMING SELECTIVE FLOW CONTROL

LETTER

Dear Mr. Pan,

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 for the United States Patent and Trademark Office [USPTO]). 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 pursuant to 37 CFR 1.19), or make your position of record in the application. Alternatively, you may do any of the aforementioned through an attorney or agent registered to practice before the USPTO and presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding this application should be directed to the File Information Unit at (703) 308-2733. For information on how to order a copy of the application or a specific paper in the application, contact the Certification Division at (703) 308-9726 or 1-(800) 972-6382 (outside the Washington DC area). Telephone inquiries regarding this letter should be directed to he undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions
Office of the Commissioner
for Patents

cc: Brian C. Oakes, Esq.
WorldCom, Inc.
Technology Law Dept.
1133 19th Street, N.W.
Washington, DC 20036

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : April 07, 2008

TO SPE OF : ART UNIT 1647

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/141698 Patent No.: 7282560 B2

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

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

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

DO NOT SENT TO ATTORNEY

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

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

You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

_____

_____ 1647
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date Mailed : 04/29/08

Patent No. : 7294692 B2
Patent Issued : 11/13/07
Docket No. : **39780-3330.208 US C**

Re: Request for Certificate of Correction

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

Respecting the alleged errors in the documents filed on 02/04/08; please see attachment. **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

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

Lamonte M. Newsome

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703)-308-9390 #112

HELLER EHRMAN LLP
275 MIDDLEFIELD ROAD
MENLO PARK CA 94025-3506

LMN

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : **April 08, 2008**

TO SPE OF : ART UNIT **1649**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/141702** Patent No.: **7294692 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 Director/SPE response to 703-872-9390

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: PCT/US00/32678 and 60/209,832 are not prior filed ~~earlier~~ applications for 10/141,702

SPE

1649
Art Unit

PAGE 1/1 * RCVD AT 4/9/2008 9:39:41 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-4/9 * DNIS:2709990 * CSID: * DURATION (mm-ss):01-16

UNITED STATES 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 : 10/31/08

Patent No. : 7294692 B2
Patent Issued : 11/13/07
Docket No. : **39780-3330.208 US C**

Re: Request for Certificate of Correction

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

Respecting the alleged errors in the documents filed on 09/12/08; please see attachment. **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

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

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703)-308-9390 #112

GOODWIN PROCTER LLP
135 COMMONWEALTH DRIVE
MENLO PARK CA 94025

LMN

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/06/08

TO SPE OF : ART UNIT 1649

SUBJECT : Request for Certificate of Correction for Appl. No.: 10141702 Patent No.: 7294692 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

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: There is no record of Preliminary amendment filed on 09/10/02 on file of 10/141,702 case. Applicant is advised to file a petition in accordance with 37 CFR 1.10, see MPEP 511, for proper consideration of correspondence.

SPE I Stucker **Art Unit** 1649

PAGE 1/1 * RCVD AT 10/27/2008 3:20:24 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/12 * DNIS:2709990 * CSID: * DURATION (mm-ss):00-42

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

GATEWAY, INC.
ATTENTION: IP LAW GROUP (MAIL STOP SD-21)
14303 GATEWAY PLACE
POWAY CA 92064

COPY MAILED

SEP 1 2 2002

OFFICE OF PETITIONS

In re Application of
Smith
Application No. 10/141,721
Filed: August 12, 2002
Attorney Docket No.: P1787US00
FOR: PERSONALIZED SETUP POSTER GENERATION

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.182, filed August 12, 2002, requesting that the above-identified application be accorded a filing date as of the date of submission of omitted Figure 7.

The application was deposited on May 9, 2002. On June 19, 2002, the Office of Initial Patent Examination mailed a Notice of Omitted Items in a Nonprovisional Application (Notice) informing petitioner that Figure 7, while described in the specification, appeared to have been omitted.

In response to the Notice, a petition under 37 CFR 1.182, including Figure 7 and a newly executed declaration, was filed on August 12, 2002, requesting that the above-identified application be accorded a filing date as of the date of deposit of the item noted as omitted in the Notice mailed June 19, 2002.

The above-identified application should be accorded a filing date of August 12, 2002, which is the date that Figure 7 was received in the Office.

The petition is granted.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **August 12, 2002**. The Office of Initial Patent Examination will mail a filing receipt in due course.

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

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JUN 20 2006

HELLER EHRMAN LLP
275 MIDDLEFIELD ROAD
MENLO PARK, CA 94025

In re Application of	:
Kevin P. Baker et al	:
Serial No.: 10/141,753	: DECISION ON PETITION
Filed: May 8, 2002	:
Attorney Docket No.: 39780-3330R1C193	:

This letter is in response to the Petition under 37 C.F.R. 1.181, filed May 15, 2006 requesting (1) that the Examiner's Answer be designated as containing a new ground of rejection; (2) that the examiner provide a corrected Examiner's Answer which identifies the rejection as a new ground of rejection; and (3) that prosecution be reopened because of the new ground of rejection.

BACKGROUND

On January 14, 2005, the examiner mailed a non-Final Office action to applicants, setting a three month shortened statutory period for reply. In the Office action claims 72-77 were rejected under 35 U.S.C. 101 as lacking a substantial credible utility and lack of enablement and under 35 U.S.C. 112, first paragraph, for the same reasons.

Applicants filed a reply on April 14, 2005, amending claims 72 and canceling claim 77, and replying to the rejections by relying on arguments involving the concept of "universal control" and including an affidavits by Dr. Smith and Dr. Polakis also utilizing "universal control".

The examiner mailed a Final Office action to applicants on June 6, 2005, maintaining the rejections under 35 U.S.C. 101 and 112, first paragraph for lack of utility and for lack of written description. The examiner dismissed and did not consider the Smith affidavit as it was copied from another application. However, the examiner did comment and respond to arguments regarding "universal normal control" on pages 4, 5 and 6 of the action.

Applicants filed an argument after final rejection on August 1, 2005, however this argument does not contain any substantive argument regarding "universal control" other than to mention the

Smith affidavit and that it should be considered. In an Advisory Action mailed August 18, 2005, the examiner indicated consideration of applicants' arguments but that they were unpersuasive.

Applicants filed a Notice of Appeal on October 31, 2005, and a proper Appeal Brief on February 27, 2006. The Appeal Brief presents arguments with respect to "universal normal control" on pages 20-22 of the Brief.

The examiner mailed an Examiner's Answer to applicants on March 16, 2006. The examiner specifically set forth arguments relating to "universal control" or "universal normal control" at pages 8-9 and 17 of the Answer which are similar to arguments set forth in the Final Office action. The only difference between them being that a more explicit response to applicants' arguments of the same term in the Brief is set forth.

Applicants filed this petition on May 15, 2006, asking that the Examiner's Answer be designated as having a new ground of rejection therein. Applicants filed concurrently a Reply Brief directed to the alleged new ground of rejection. The examiner in a letter mailed may 25, 2006, indicated entry and consideration of the Reply Brief.

DISCUSSION

Applicants argue that the examiner has set forth a new ground of rejection in the Examiner's Answer specifically directed to the term "universal control" in relationship to Example 30 of the specification. As noted in the review of the Office actions and applicants' replies above, the term "universal control" or "universal normal control" (which are considered to be essentially the same) have been present in the examiner's arguments supporting the rejection under 35 U.S.C. 101 and 112, second paragraph, in all Office actions.

Applicants have also used and argued the same terms in each reply. Applicants have also supplied affidavits in support of their arguments. The examiner has not directly addressed the value of these affidavits, but has indirectly commented on them as being unpersuasive. Thus applicants' argument that the Examiner's Answer contains a new ground of rejection is not found persuasive.

DECISION

For the above reasons, the petition under 37 C.F.R. 1.181 requesting that the Examiner's Answer be designated as containing a new ground of rejection is **DENIED**.

This application will be forwarded to Board of Patent Appeals and Interferences.

There is no fee for this petition and the petition fee paid of $130.00 will be credited to applicants' Deposit Account No. 08-1641, as directed.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the mailing date and be directed to Director, TC 1600, at the mailing address listed above.

Should there by any questions regarding this decision, please contact Special Program Examiner, 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.

John L. LeGuyader
Director, Technology Center 1600

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JUN 20 2006

HELLER EHRMAN LLP
275 MIDDLEFIELD ROAD
MENLO PARK CA 94025-3506

In re Application of	:
Baker et al	:
Serial No.: 10/141,755	: DECISION ON PETITION
Filed: May 8, 2002	:
Attorney Docket No.: P3330R1C192	:

This letter is in response to the Petition under 37 C.F.R. 1.181, filed May 16, 2006 requesting (1) that the Examiner's Answer be designated as containing a new ground of rejection; (2) that the examiner provide a corrected Examiner's Answer which identifies the rejection as a new ground of rejection; and (3) that prosecution be reopened because of the new ground of rejection.

BACKGROUND

On January 14, 2005, the examiner mailed a non-Final Office action to applicants, setting a three month shortened statutory period for reply. In the Office action claims 72-84 were rejected under 35 U.S.C. 101 as lacking a substantial credible utility and lack of enablement and under 35 U.S.C. 112, first paragraph, for the same reasons. Claims 72-84 were also rejected under 35 U.S.C. 112, second paragraph for being indefinite.

Applicants filed a reply on April 14, 2005, amending claims 72-79 and canceling claims 80 and 81, and replying to the rejections by relying on arguments involving the concept of "universal control" and including affidavits by Dr. Smith and Dr. Polakis also utilizing "universal control".

The examiner mailed a Final Office action to applicants on June 6, 2005, maintaining the rejections under 35 U.S.C. 101 and 112, first paragraph for lack of utility and for lack of written description. The examiner dismissed and did not consider the Smith affidavit as it was copied from another application. The examiner concludes that the declaration of Dr. Polakis is insufficient to overcome the rejection of the instant claims because it is limited to a discussion of analysis of the correlation between mRNA and polypeptide levels, and provides no explanation on how to extrapolate the data obtained in DNA microarray to the immediate use of the instant

polypeptides as cancer markers, as asserted by applicants. The examiner also commented and responded to arguments regarding "universal normal control" in the Office action.

Applicants filed an amendment after final rejection on August 2, 2005, however this amendment did not contain any substantive argument regarding "universal control" other than to mention the Smith affidavit and that it should be considered. In an Advisory Action mailed August 18, 2005, the examiner indicated consideration of applicants' arguments but that they were unpersuasive.

Applicants filed a Notice of Appeal on October 31, 2005, and a proper Appeal Brief on February 27, 2006. The Appeal Brief presents arguments with respect to "universal normal control" in the Brief.

The examiner mailed an Examiner's Answer to applicants on March 16, 2006. The examiner specifically sets forth arguments relating to "universal control" or "universal normal control" in the Answer which are similar to arguments set forth in the Final Office action. The only difference between them being that a more explicit response to applicants' arguments of the same term in the Brief is set forth.

Applicants filed this petition on May 16, 2006, asking that the Examiner's Answer be designated as having a new ground of rejection therein. Applicants filed concurrently a Reply Brief directed to the alleged new ground of rejection.

DISCUSSION

Applicants argue that the examiner has set forth a new ground of rejection in the Examiner's Answer specifically directed to the term "universal control" in relationship to Example 30 of the specification. As noted in the review of the Office actions and applicants' replies above, the term "universal control" or "universal normal control" (which are considered to be essentially the same) have been present in the examiner's arguments supporting the rejection under 35 U.S.C. 101 and 112, second paragraph, in all Office actions.

Applicants have also used and argued the same terms in each reply. Applicants have also supplied affidavits in support of their arguments. The examiner did not consider the Smith affidavit as it was copied from another application and indicated the Polakis affidavit as being unpersuasive. Thus, applicants' argument that the Examiner's Answer contains a new ground of rejection is not found persuasive.

DECISION

For the above reasons, the petition under 37 C.F.R. 1.181 requesting that the Examiner's Answer be designated as containing a new ground of rejection is **DENIED**.

This application will be forwarded to the examiner for consideration of the Reply Brief filed on May 16, 2006.

There is no fee for this petition and the petition fee paid of $130.00 will be credited to applicants' Deposit Account No. 08-1641, as directed.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the mailing date and be directed to Director, TC 1600, at the mailing address listed above.

Should there by any questions regarding this decision, please contact Special Program Examiner, Marianne C. Seidel 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.

John L. LeGuyader
Director, Technology Center 1600

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GOODWIN PROCTER LLP
135 COMMONWEALTH DRIVE
MENLO PARK CA 94025

COPY MAILED

JUL 18 2008

In re Application of	:
Goddard et al.	: DECISION ON REQUEST FOR
Application No. 10/141,756	: RECONSIDERATION OF PATENT
Filed: May 8, 2002	: TERM ADJUSTMENT
Atty. Dkt. No.: 39780-3330	:
R1C200	:

This letter is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)", filed on November 20, 2007. Applicants request that the initial determination of patent term adjustment 35 U.S.C. §154(b) be set at 391 days.

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is three hundred forty-seven (347) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On September 19, 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 to date is three hundred thirty (330) days.

The Office initially determined a patent term adjustment of three hundred thirty (330) days based on an adjustment for PTO delay of five hundred thirty-six (536) days, pursuant to 35

U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. §1.703(a)(1), reduced by sixty (60) days and one hundred forty-six (146) days of applicant delay pursuant to 37 C.F.R. §1.704(b).

Applicants contend that the applicant delay of 146 days for the filing of a Request for Continued Examination (RCE) on June 26, 2007, after the mailing of the final rejection mailed on October 31, 2006, is incorrect. Specifically, petitioners note that a Notice of Appeal was filed on March 30, 2007, but was not entered into the PTA calculation. Applicants assert that the Notice of Appeal filed on March 30, 2007, was filed three (3) months and 58 days after the mailing of the final rejection mailed on October 31, 2006. Accordingly, applicants assert that the PTA reduction for applicant delay should be 58 days rather than 146 days.

A review of the Official record confirms that a Notice of Appeal filed on March 30, 2007, was filed three (3) months and 58 days of the mailing of the final rejection mailed on October 31, 2006. As such, the applicant delay in responding to the final rejection mailed on October 31, 2006, should be 58 days rather than 146 days.

Applicants further state that the patent term adjustment should be reduced by 27 days for the filing of an RCE with a one (1) month time extension on June 26, 2007, in response to the filing of the Notice of Appeal filed on March 30, 2007.

It is not considered applicant delay under 35 USC § 154(b) and 37 CFR 1.704 when a reply is filed within three months of the filing of a notice of appeal. Accordingly, a reduction in patent term adjustment for the filing of the RCE on June 26, 2007, within three (3) months of the filing of the Notice of Appeal filed on March 30, 2007, is not warranted.

It is further noted that 37 CFR 1.703(a)(4) states that the period of adjustment for Office delay includes the number of days, if any, in the period beginning on the day after the date that is four months after the date an appeal brief in compliance with § 1.192 was filed and ending on the date of mailing of any of an examiner's answer under § 1.193, an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first.

On October 14, 2005, an appeal brief was filed. On December 23, 2005, however, a notification of non-compliant appeal brief was mailed, stating that the appeal brief is defective for failure

to comply with one or more provisions of 37 CFR 41.37. On January 20, 2006, a corrected appeal brief was filed. On April 26, 2006, an examiner's answer to the appeal brief was filed. The examiner's answer mailed on April 26, 2006, was mailed within four (4) months of January 20, 2006, the date an appeal brief in compliance with 37 CFR 1.192 was filed. Accordingly, there was no basis for entry of a period of adjustment of 71 days for Office delay.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is three hundred forty-seven (347) days (465 (536-71) days of PTO delay, reduced by 118 (58+60) days of Applicant delay).

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

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

Telephone inquiries specific to this decision should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of adjusted PAIR calculation

Day : Thursday
Date: 7/17/2008

PALM INTRANET

Time: 17:28:37

PTA Calculations for Application: 10/141756			
Application Filing Date:	05/08/2002	PTO Delay (PTO):	536
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	206
Post-Issue Petitions:	0	Total PTA (days):	347
PTO Delay Adjustment:	17		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
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87	07/15/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	27		
86	06/23/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		27	
85	06/23/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		58	
84	06/23/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	146		
68	09/19/2007	MAIL NOTICE OF ALLOWANCE			
67	09/17/2007	ISSUE REVISION COMPLETED			
66	09/17/2007	DOCUMENT VERIFICATION			
63	09/11/2007	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
62	09/11/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
61	09/04/2007	NOTICE OF ALLOWABILITY			
60	07/05/2007	DATE FORWARDED TO EXAMINER			
59	06/26/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
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57	06/26/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)		146	49
56	07/05/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
55	06/26/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
54	06/26/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
53	03/01/2007	MAIL ADVISORY ACTION (PTOL - 303)			
52	02/28/2007	ADVISORY ACTION (PTOL-303)			
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50	01/16/2007	AMENDMENT AFTER FINAL REJECTION			

49	10/31/2006	MAIL FINAL REJECTION (PTOL - 326)	10		37
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47	06/21/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
46	08/29/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
45	08/18/2006	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
44	08/29/2006	DATE FORWARDED TO EXAMINER			
43	08/18/2006	SUPPLEMENTAL RESPONSE			
42	08/29/2006	CORRESPONDENCE ADDRESS CHANGE			
41	09/23/2002	REFERENCE CAPTURE ON IDS			
40	05/08/2002	PRELIMINARY AMENDMENT			
39.7	06/21/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
39	06/21/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
38	07/06/2006	DATE FORWARDED TO EXAMINER			
37	06/21/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)			
36	07/06/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
35	06/21/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
34	04/26/2006	MAIL EXAMINER'S ANSWER	71		28
33	04/12/2006	EXAMINER'S ANSWER TO APPEAL BRIEF			
32	02/02/2006	DATE FORWARDED TO EXAMINER			
31	01/20/2006	APPEAL BRIEF FILED			
30	12/23/2005	NOTICE -- DEFECTIVE APPEAL BRIEF			
29	10/24/2005	DATE FORWARDED TO EXAMINER			
28.1	10/14/2005	DEFECTIVE / INCOMPLETE APPEAL BRIEF FILED			
28	10/14/2005	APPEAL BRIEF FILED			
27	08/17/2005	NOTICE OF APPEAL FILED		60	21
26	08/17/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
25	06/29/2005	MAIL ADVISORY ACTION (PTOL - 303)			
24	06/27/2005	ADVISORY ACTION (PTOL-303)			
23	05/19/2005	DATE FORWARDED TO EXAMINER			
22	05/10/2005	AMENDMENT AFTER FINAL REJECTION			
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20	03/16/2005	FINAL REJECTION			
19	02/22/2005	CASE DOCKETED TO EXAMINER IN GAU			
18.7	01/05/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	15
18	01/05/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	01/05/2005	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
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14	01/05/2005	WORKFLOW INCOMING AMENDMENT IFW			
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11	07/27/2004	CASE DOCKETED TO EXAMINER IN GAU			
10.7	09/23/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	09/23/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	09/16/2002	PRELIMINARY AMENDMENT			
7	08/16/2002	APPLICATION DISPATCHED FROM OIPE			
6	08/15/2002	APPLICATION IS NOW COMPLETE			
4	06/04/2002	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
3	06/02/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	05/08/2002	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	05/08/2002	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

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Paper No.

ARNOLD & PORTER LLP (24126)
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555 TWELFTH STREET, N.W.
WASHINGTON DC 20004-1206

MAILED

MAY 07 2010

OFFICE OF PETITIONS

In re Patent No. 7,488,586	:	DECISION ON REQUEST
Goddard et al.	:	FOR
Issue Date: Feb. 10, 2009	:	RECONSIDERATION OF
Application No. 10/141,756	:	PATENT TERM ADJUSTMENT
Filed: May 8, 2002	:	and
Atty Docket No.	:	NOTICE OF INTENT TO ISSUE
GNE-3330-R1C200	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on April 9, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred eighty-four (784) days. For the reasons stated below, the petition will be treated as a petition requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred twenty-seven (727) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by seven hundred twenty-seven (727) is **GRANTED to the extent indicated herein.**

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on May 9, 2005 and ends on June 20, 2006, the day before the RCE was filed, and is 408 days. Further, any time consumed by appellate review is not included in the calculation of 37 CFR 1.702(b). See 35 U.S.C. 154(b)(1)(B)(ii). On August 17, 2005,

a notice of appeal was filed. On June 21, 2006, the RCE was filed. Accordingly, the excluded period for appeal is 308 days, and the "B" delay period is 100 (408 - 308) days.

It is noted that patentees assert that the period consumed by appellate review is 252 days, from the filing of the notice of appeal on August 17, 2005 to the mailing of an examiner's answer on April 26, 2006.

Petitioners are incorrect. 37 CFR 1.702 states, in pertinent part:

> (b) The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods:
>
> (4) The number of days, if any, in the period beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31 of this title and ending on the date of the last decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145, or on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first, if the appeal did not result in a decision by the Board of Patent Appeals and Interferences.

Accordingly, the period consumed by appellate review does not end with the mailing of an examiner's answer, but rather with the mailing of a decision by the Board of Patent Appeals and Interferences, a Federal court decision, an action under § 132, or a notice of allowance. As the filing of an RCE cuts off the ability to accrue further delay under the three year provision, and an RCE was filed on June 21, 2006, the period consumed by appellate review begins with the filing of the Notice of Appeal on August 17, 2005, and ends on the day before the filing of the RCE, June 20, 2006, and is 308 days.

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

The address in the petition is different than the correspondence address. A courtesy copy of this decision is being mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record. A change of correspondence address should be filed if the correspondence address needs to be updated.

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **seven hundred twenty-seven (727)** days.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

cc: GOODWIN PROCTOR LLP
135 COMMONWEALTH DR
MENLO PARK CA 94025

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,488,586 B2

DATED : **Feb. 10, 2009** **DRAFT**

INVENTOR(S) : Goddard 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 627 days.

Delete the phrase "by 627 days" and insert – by 727 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN 13 2006

HELLER EHRMAN LLP
275 MIDDLEFIELD ROAD
MENLO PARK, CA 94025

In re Application of	:
Kevin P. Baker et al	:
Serial No.: 10/141,762	: DECISION ON PETITION
Filed: May 8, 2002	:
Attorney Docket No.: 39780-3330R1C191	:

This letter is in response to the Petition under 37 C.F.R. 1.181, filed March 10, 2006 requesting (1) that the Examiner's Answer be designated as containing a new ground of rejection; (2) that the examiner provide a corrected Examiner's Answer which identifies the rejection as a new ground of rejection; and (3) that prosecution be reopened because of the new ground of rejection. Further, it is unclear whether an affidavit has been considered by the examiner or not.

BACKGROUND

On December 13, 2004, the examiner mailed a non-Final Office action to applicants, setting a three month shortened statutory period for reply. In the Office action claims 72-76 were rejected under 35 U.S.C. 101 as lacking a substantial credible utility and lack of enablement and under 35 U.S.C. 112, first paragraph, for the same reasons. Applicants filed a reply on May 9, 2005, relying on arguments involving the concept of "universal control" and including an affidavit by Dr. Smith also utilizing "universal control".

The examiner mailed a Final Office action to applicants on April 28, 2005, maintaining the rejections under 35 U.S.C. 101 and 112, first paragraph. The examiner dismissed and did not consider the Smith affidavit as it was copied from another application. However, the examiner did comment and respond to arguments regarding "universal normal control" on pages 4, 5 and 6 of the action.

Applicants filed an argument after final rejection on June 27, 2005, however this argument did not contain any mention or argument regarding "universal control" other than to mention the Smith affidavit and that it should be considered. In an Advisory Action mailed July 15, 2005, the examiner indicated consideration of applicants' arguments and entry thereof, but that they were unpersuasive. Applicants then submitted, on August 19, 2005, a new executed copy of the

Smith affidavit with instant Serial Number on it. (No formal acknowledgement of the receipt of the affidavit has been made by the examiner.)

Applicants filed a Notice of Appeal on September 27, 2005, and a proper Appeal Brief on November 29, 2005. The Appeal Brief presents arguments with respect to the Smith affidavit and "universal normal control" on pages 10-12 of the Brief.

The examiner mailed an Examiner's Answer to applicants on January 13, 2006. The examiner specifically set forth arguments relating to "universal control" or "universal normal control" at pages 5-11 of the Answer which are similar to arguments set forth in the Final Office action. The only difference between them being that a more explicit response to applicants' arguments of the same term in the Brief is set forth.

Applicants filed this petition on March 10, 2006, asking that the Examiner's Answer be designated as having a new ground of rejection therein. Applicants filed concurrently a Reply Brief directed to the alleged new ground of rejection.

DISCUSSION

Applicants argue that the examiner has set forth a new ground of rejection in the Examiner's Answer specifically directed to the term "universal control" in relationship to Example 30 of the specification. As noted in the review of the Office actions and applicants' replies above. The term "universal control" or "universal normal control" (which are considered to be essentially the same) have been present in the examiner's arguments supporting the rejection under 35 U.S.C. 101 and 112, second paragraph, in all Office actions except the Advisory Action.

Applicants have also used and argued the same terms in each reply. Applicants have also supplied affidavits in support of their arguments. The examiner has not directly addressed the value of these affidavits, but has indirectly commented on them as being unpersuasive. Thus applicants' argument that the Examiner's Answer contains a new ground of rejection is not found persuasive.

DECISION

For the above reasons, the petition under 37 C.F.R. 1.181 requesting that the Examiner's Answer be designated as containing a new ground of rejection is **DENIED**.

This application will be forwarded to the examiner for consideration of the Reply Brief and for clarification as to the extent of consideration of the affidavit submitted August 19, 2005.

There is no fee for this petition and the petition fee paid of $130.00 will be credited to applicants' Deposit Account No. 08-1641, as directed.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the mailing date and be directed to Director, TC 1600, at the mailing address listed above.

Should there by any questions regarding this decision, please contact Special Program Examiner, 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.

John L. LeGuyader
Director, Technology Center 1600

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FISH & RICHARDSON, P.C.
1425 K Street, N.W.
11th Floor
Washington, DC 20005-3500

MAILED

MAY 1 2 2005

Technology Center 2100

In re Application of:
Hiroshi KOBATA, et al.
Application No. 10/141,771
Filed: May 10, 2002
For: MODIFYING AN ELECTRONIC MAIL SYSTEM TO PRODUCE A SECURE DELIVERY SYSTEM

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed March 31, 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.

A review of the file reveals that a non-final Office Action was mailed on November 5, 2004. Therefore, the time for response, including the maximum extendable period, to the Office action mailed November 5, 2004, expired on May 5, 2005. Thus, as of the mailing of this decision, less than thirty days remain in the period for response to the Office action. Accordingly, the request is **DENIED.**

Further communications will continue to be addressed to the address above.

For

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : MAY 3, 2007

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction for Appl. No.: 10141774 Patent No.: 7177260B2

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

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

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

DO NOT SENT TO ATTORNEY

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

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

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

Thank You For Your Assistance

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

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

Comments: Review of the record indicates that the claims introduced are not part of the Original patent, hence no correction can be made to unentered claims.

WAYNE YOUNG
SUPERVISORY PATENT EXAMINER

SPE — **Art Unit** 2627

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

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OCT 2 6 2006

OFFICE OF PETITIONS

In re Patent No. 6,954,816	:	
Issue Date: October 11, 2005	:	
Application No.: 10/141,851	:	NOTICE
Filed: May 10, 2002	:	
Attorney Docket No.: TOP 219	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed November 9, 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.

Shirene Willis Brantley

Shirene Willis Brantley
Petitions Attorney
Office of Petitions

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

BAKER & HOSTETLER, LLP
WASHINGTON SQUARE, SUITE 1100
1050 CONNECTICUT AVE., NW
WASHINGTON, DC 20036

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OFFICE OF PETITIONS

In re Application of
Andrian I. Kouznetsov, Anthony E. Jenkins, Audrey Nelson and Rod J. Valenta
Application No. 10/141,857
Filed: May 10, 2002
Title: ABSOLUTE HUMIDITY SENSOR TO CONTROL DRYING EQUIPMENT

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.47(a)

This is in response to the "Petition Under 37 CFR 1.47(a)," filed September 6, 2002.

The petition is **granted**.

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

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

The file is being forwarded to Technology Center 2800 for examination in *due course*.

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

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

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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ANTHONY E. JENKINS
604 WEST JOHN BEERS ROAD
LOT 36N
STEVENSVILLE, MI 49127

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OFFICE OF PETITIONS

In re Application of
Andrian I. Kouznetsov, Anthony E. Jenkins,
Audrey Nelson and Rod J. Valenta
Application No. 10/141,857
Filed: May 10, 2002
Title: ABSOLUTE HUMIDITY SENSOR TO CONTROL DRYING EQUIPMENT

Dear ANTHONY E. JENKINS:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Edward Tannouse at (703) 306-9200. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1(800) 972-6382 (outside the Washington D.C. area).

For

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

BAKER & HOSTETLER, LLP
WASHINGTON SQUARE, SUITE 1100
1050 CONNECTICUT AVE., NW
WASHINGTON, DC 20036

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Paper No. 8

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

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OFFICE OF PETITIONS

In re Application of	:	
Adams et al.	:	
Application No. 10/141,862	:	ON PETITION
Filed: May 10, 2002	:	
Attorney Docket No. BTW-017	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 6, 2004, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed October 27, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on January 28, 2004.

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

The file is now being forwarded to Technology Center 2800 for further examination on the merits.

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

Liana Chase

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

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OFFICE OF PETITIONS

PLANTERS REALTY, INC.
3815 MENLO DRIVE
BALTIMORE MD 21215

In re Application of :
David Wiliam Adler et al :
Application No. 10/141,919 :
Filed: May 10, 2002 :
Attorney Docket No. SVL920020013US1 :
0920.0027 :

ON PETITION

This is a decision on the petition, filed January 19, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 21, 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]

Petitioner is encouraged to submit a proper request for a change of address.

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

---

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

The examiner of Technology Center AU 2166 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
DAVID VICTOR
KONRAD RAYNES & VICTOR, LLP
315 SOUTH BEVERLY DRIVE, STE. 210
BEVERLY HILLS, CA 90212

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/141,929	05/10/2002	Wing Chiu Yip	016660-083	9911

7590 09/30/2008

James A. LaBarre
BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. Box 1404
Alexandria, VA 22313-1404

EXAMINER
OSORIO, RICARDO

ART UNIT	PAPER NUMBER
2629	

MAIL DATE	DELIVERY MODE
09/30/2008	PAPER

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

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

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James A. LaBarre
BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. Box 1404
Alexandria VA 22313-1404

In re Application of: YIP, WING CHIU, et al. Application Serial No.: 10/141,929 Filed: May 10, 2002 For: **METHOD, MATERIALS AND APPARATUS FOR DRIVING GRAY-SCALE BISTABLE CHOLESTERIC DISPLAYS**	DECISION ON PETITION TO WITHDRAW RESTRICTION REQUIREMENT UNDER 37 CFR 1.144

This is a decision on the petition filed December 8, 2006 and resubmitted December 11, 2006 under 37 C.F.R. §1.144 to withdraw an outstanding restriction requirement.

The petition is **DISMISSED**.

The petition was filed by a person not registered to practice before the Office. Power of attorney of an applicant can be given as set forth in 37 CFR 1.32(c). See also, 37 CFR 1.34, MPEP 402 and 402.01. Furthermore, the signer of the petition is not the inventive entity. Only papers submitted and signed by all of the inventors, the assignee or a practitioner registered to practice before the Office will be accepted. See 37 CFR 1.33(b) and MPEP 714.01(a).

Kenneth A. Wieder
Technology Center 2600
Communications

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JAMES A. LABARRE
BURNS, DOANE, SWECKER,
& MATHIS, L.L.P.
P.O. BOX 1404
ALEXANDRIA, VA 22313-1404

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OFFICE OF PETITIONS

In re Application of	:	
Wing Chiu YIP, et al	:	
Application No. 10/141,929	:	DECISION ON PETITION
Filed: May 10, 2002	:	
Attorney Docket No. 016660-083	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 24, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file a proper reply to the Notice of Non-Compliant Amendment mailed, October 7, 2008, which set a period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 8, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) a reply in the form of a properly signed amendment, (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

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

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

This application is being referred to Technology Center 2629 for appropriate action by the Examiner in the normal course of business on the reply received June 24, 2009.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Finnegan, Henderson, Farabow, Garrett & Dunner LLP
1300 I Street, NW
Washington, DC 20005

#6

In re application of
Terrell B. Jones et al.
Application No.10/141,935
Filed: May 10, 2002
For: GOAL ORIENTED TRAVEL PLANNING SYSTEM

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on November 8, 2002, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application. The delay in treating this petition is sincerely regretted.

The request is **NOT APPROVED**.

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

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

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

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

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks conditions A) and B) above.

As to condition A), the attorney signing the request is not of record.

As to condition B), a proper reason for withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided.

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(703) 308-2121
Facsimile No.: (703) 605-0586

RAR/dxn: 6/2/03

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Mail Date: 04/20/2010

Applicant	: Francis Argouarch	: DECISION ON REQUEST FOR
Patent Number	: 7602842	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/142,053	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/10/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1098** 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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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
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WASHINGTON DC 20037

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OFFICE OF PETITIONS

In re Application of	:	
Raymond Gass et al	:	
Application No. 10/142,060	:	DECISION ON PETITION
Filed: May 10, 2002	:	
Attorney Docket No. Q69697	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 11, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 7, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time were timely obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on October 11, 2006 (October 7, 2006, the due date, was a Saturday, and October 9, 2006 was a Federal holiday). A Notice of Abandonment was mailed on April 11, 2007 stating that the reply received on January 9, 2007 was received after expiration of the maximum shortened statutory period for reply, which expired on January 7, 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 filed on January 9, 2007, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Office action of July 7, 2006 is accepted as being unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,020 extension of time fee submitted on January 9, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218 or the Office of Petitions Help Desk at (571) 272-3282.

This application is being referred to Technology Center AU 2626 for appropriate action in the normal course of business on the reply received January 9, 2007.

Frances Hicks
Petitions Examiner
Office of Petitions

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Mail Date: 04/20/2010

Applicant	: Raymond Gass	: DECISION ON REQUEST FOR
Patent Number	: 7596487	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/142,060	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/10/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2108** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE G. Toatley

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/142,061

Paper No.: _____

DATE : 7/27/05

TO SPE OF : ART UNIT 2877

SUBJECT : Request for Certificate of Correction on Patent No.: 6900893

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:

Gregory J. Toatley, Jr.
Supervisory Patent Examiner

SPE 25 AUG 05

2877
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

SPE G. Toatley

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/142,061

Paper No.: _____

DATE : 7/27/05

TO SPE OF : ART UNIT 2877

SUBJECT : Request for Certificate of Correction on Patent No.: 6900893

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:

Gregory J. Toatley, Jr.
Supervisory Patent Examiner

SPE

2877
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

ROBERT A. MCLAUCHLAN
P.O. BOX 26780
AUSTIN, TX 78755

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JUN 27 2007
OFFICE OF PETITIONS

In re Application of	:	
DRAKE, JR.	:	
Application No.: 10/142,071	:	DECISION ON PETITION
Filing Date: May 9, 2002	:	UNDER 37 CFR 1.137(B)
Attorney Docket No.: 008571:97 (LM P021USC4)	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 12, 2007, to revive the above-identified application.

The petition is **DISMISSED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed July 20, 2006, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on October 21, 2006.

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before June 8, 1995.

The instant petition does not satisfy requirement (2) above. The Office of Petitions has determined that Deposit Account No. 50-2126 lacks sufficient funds to cover the requisite $1,500.00 petition fee.

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

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

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

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

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

Any questions concerning this matter may be directed to Bryan Lin at (571) 272-3303.

Bryan Lin

Bryan Lin
Legal Examiner
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

BRACEWELL & GIULIANI LLP
P.O. BOX 61389
HOUSTON, TX 77208-1389

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FEB 0 1 2008

OFFICE OF PETITIONS

In re Application of	:	
DRAKE, JR.	:	
Application No.: 10/142,071	:	DECISION ON PETITION
Filing Date: May 9, 2002	:	UNDER 37 CFR 1.137(B)
Attorney Docket No.: 008571:97 (LM P021USC4)	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed November 13, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed July 20, 2006, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on October 21, 2006.

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

This application is being referred to the Office of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3303.

Bryan Lin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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BRACEWELL & GIULIANI LLP
P.O. BOX 61389
HOUSTON, TX 77208-1389

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JUL 07 2008

OFFICE OF PETITIONS

In re Application of	:	
Thomas E. DRAKE JR.	:	
Application No. 10/142,072	:	DECISION ON PETITION
Filed: May 9, 2002	:	
Attorney Docket No. TA-00584	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 25, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file a complete and proper appeal brief within the time period provided in 37 CFR 41.37(a)(1). As a complete and proper appeal brief was not filed within one (1) month of the Notification of Non-Compliance with 37 CFR 41.37(c)(1), mailed October 10, 2006, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. *See* 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on November 11, 2006. *See* MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

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

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

This application is being referred to Technology Center AU 2886 for appropriate action by the Examiner in the normal course of business on the reply received March 25, 2008.

Thurman Page
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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P.O. BOX 61389
HOUSTON TX 77208-1389

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APR 01 2008

OFFICE OF PETITIONS

In re Application of	:	
Thomas E. DRAKE, Jr.	:	
Application No. 10/142,073	:	DECISION ON PETITION
Filed: May 09, 2002	:	
Attorney Docket No. **TA-00586**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 09, 2007,to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, August 01, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 02, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay. Accordingly, the response to the non-final office action of August 01, 2006 is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 2886 for appropriate action on the concurrently filed amendment.

David Bucci
Petitions Examiner
Office of Petitions

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

MAY - 6 2003

#12

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

In re Application of	:
Yuuki Takaishi et al	:
Serial No.: 10/142,081	: PETITION TO MAKE SPECIAL
Filed: May 8, 2002	:
Attorney Docket No.: 019941-001110	:

This is in response to applicants' petition filed April 21, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

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

The following condition applies to the grant of this petition: If, upon examination, it is determined that a restriction requirement is necessary because of multiple inventions being claimed, applicant will be required to make an election without traverse of a single invention to be prosecuted. Failure to make an election without traverse will void the special status accorded in this decision.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MAR 18 2004

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

In re Application of	:
Yuuki Takaishi et al.	:
Serial No.: 10/142,081	: PETITION TO MAKE SPECIAL
Filed: May 8, 2002	:
Attorney Docket No.: 019941-001110	:

This is in response to applicants' second and third petitions both filed November 7, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

The first petition was granted on April 7, 2003.

These two petitions are <u>DISMISSED</u> as moot in view thereof.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, Washington, DC 20231, or by telephone at 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, D.C. 20231
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Paper No. 7

BAKER BOTTS L.L.P.
44TH FLOOR
30 ROCKEFELLER PLAZA
NEW YORK NY 10112-0228

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MAR 0 4 2003

OFFICE OF PETITIONS

In re Application of
Baikoff, et al.
Application No. 10/142,088
Filed: January 13, 2003
Attorney Docket No. A35220- 065268.0104
FOR: CORRECTIVE ELEMENT FOR PRESBYOPIA

DECISION DISMISSING PETITIONS

This is a decision on the petition entitled, "PETITION AND RE-SUBMISSION OF DRAWINGS ACCOMPANYING RESPONSE TO NOTICE TO FILE MISSING PARTS," filed January 13, 2003, requesting, in effect, withdrawal of the Notice of Incomplete Nonprovisional Application (Notice), mailed June 13, 2002, insofar as it alleges that drawings were omitted on filing. The petition will be treated under 37 CFR 1.53(e).

In addition, this decision will address the petition under 37 CFR 1.47(a), filed January 13, 2003.

The petition under 37 CFR 1.53(e) is **DISMISSED**.

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

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.53(e) and/or 1.47(a)" and must include an oath or declaration executed by the available inventor. **Failure to respond will result in abandonment of the application.**

PETITION UNDER 37 CFR 1.53(e)

The application was deposited on May 9, 2002. On June 13, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioner that a declaration was required and the application had not been accorded a filing date because the application was deposited without drawings.

In response to the Notice, petitioner filed the present petition. The Notice states that if the omitted items were not submitted within two months of the mail date of the Notice, proceedings on the application would be terminated. Petitioner filed the instant petition on January 13, 2003, a full 5 months after the deadline for response. Under 37 CFR 1.181(f), these petitions could be dismissed as untimely. However, the undersigned has decided to address the merits of the petitions.

The $1,970.00 extension of time fee submitted on January 13, 2003 will be credited to petitioner's deposit account no. 02-4347 because no extensions of time apply when responding to a Notice of Incomplete Nonprovisional Application.

The declaration by counsel submitted with the petition state without equivocation or doubt that he each checked the assembled application papers to determine that the application included all pages of the drawings.

The Office file is the official record of what was filed on May 9, 2002. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. In this regard, declarations by individuals involved in the preparation and mailing of the original application reciting their personal recollection or belief of what was contained in the application that they reviewed and/or mailed are no more persuasive of what was actually mailed than the contents of the official record. Such declarations, as in this case, are usually made months after the actual events recited. In this case, the declaration supplied on January 13, 2003, were made more than eight (8) months after the application was actually mailed.

It is for this reason that the Office has established a practice of providing a receipt for papers filed in the Office to any applicant desiring a receipt. The practice, which was long ago established and is well publicized, requires that any paper for which a receipt is desired be filed in the Office with a self-addressed postcard identifying the paper.

Petitioner requests that the application be accorded a filing date of May 9, 2002 on the basis that 7 sheets of drawings were received in the Patent and Trademark Office (PTO) on May 9, 2002. In support, applicant has submitted a copy of applicant's postcard receipt showing an Office of Initial Patent Examination generated barcode showing May 9, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 7 pages of informal drawings.

A properly itemized return postcard constitutes *prima facie* evidence that the items were filed on the date stamped thereon. However, if the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as prima facie evidence of receipt of that item in the USPTO. MPEP 503. The itemized postcard in this case was annotated with "The PTO did not receive the following listed item(s) Drawings." Therefore, the postcard receipt cannot establish drawings were filed on May 9, 2002.

The petition to withdraw the June 13, 2002 Notice is <u>dismissed</u>. Petitioner is entitled to a filing date of January 13, 2003, which is the date that drawings were filed in the Office.

PETITION UNDER 37 CFR 1.47(a)

A grantable petition under 37 CFR 1.47(a) requires

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

This petition lacks item (2) above and is therefore dismissed.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The Declaration submitted with the present petition executes the specification that "was filed on May 9, 2002 as Application Serial No. 10/142,088 and was amended on (*if applicable*).". The declaration submitted on January 13, 2002 does not technically execute the drawings filed on January 13, 2002 because, as discussed above, the drawings are not part of the specification filed on May 9, 2002. The available inventor must execute a declaration that explicitly mentions the items filed on both May 9, 2002 and January 13, 2003. For this reason, an oath or declaration in compliance with 37 CFR 1.63 and 1.64 is required. See MPEP 409.03(a).

In addition, petitioner must pay the $130.00 surcharge for the filing of a late declaration.

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

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231
Attn: E. Shirene Willis

By facsimile: (703) 308-6916
Attn: Office of Petitions/ E. Shirene Willis

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202
Attn: E. Shirene Willis

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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 L.L.P.
44TH FLOOR
30 ROCKEFELLER PLAZA
NEW YORK NY 10112-0228

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SEP 02 2003

OFFICE OF PETITIONS

In re Application of
Baikoff & Hampton
Application No. 10/142,088
Filed: January 13, 2003
Attorney Docket No. A35220- 065268.0104
FOR: CORRECTIVE ELEMENT FOR PRESBYOPIA

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the reconsideration petition under 37 CFR 1.47(a), filed August 25, 2003 (certificate of mailing date August 21, 2003).

The petition is granted.

Petitioner has shown that the non-signing inventor, Georges Baikoff, has through his attorney refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the exhibits to the petition, filed January 13, 2003, show that the inventor was mailed the application papers, including the specification, claims and drawings on April 1, 2002, but his attorney, William Krisel,sent a letter to Rick Aguilera, president of the non-signing inventor's former employer, on April 30, 2002 that states his client would not sign the declaration. Petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

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

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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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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PROFESSOR GEORGES BAIKOFF
88, RUE DU COMMANDANT ROLLAND
13008 MARSEILLE
FRANCE

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SEP 02 2003

OFFICE OF PETITIONS

In re Application of
Baikoff & Hampton
Application No. 10/142,088
Filed: January 13, 2003
Attorney Docket No. A35220- 065268.0104
FOR: CORRECTIVE ELEMENT FOR PRESBYOPIA

LETTER

Dear Professor Baikoff:

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

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

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

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: BAKER BOTTS L.L.P.
44TH FLOOR
30 ROCKEFELLER PLAZA
NEW YORK NY 10112-0228

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IBM CORPORATION
3039 CORNWALLIS RD.
DEPT. T81 / B503, PO BOX 12195
RESEARCH TRIANGLE PARK NC 27709

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AUG 14 2008

In re Application of :
James M. Mathewson, II :
Application No. 10/142,128 : ON PETITION
Filed: May 9, 2002 :
Attorney Docket No. RSW920020045US1 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 23, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 4, 2006. A Notice of Abandonment was mailed on February 23, 2007. On August 23, 2007, the present petition was filed.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Hunter E. Webb appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that petitioner is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of $790 and the submission required by 37 CFR 1.114; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay[1].

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The 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.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: HUNTER E. WEBB
75 STATE STREET
14TH FLOOR
ALBANY, NY 12207

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAY 31 2006

KATHRYN L. HESTER, PH.D.
DUNLAP, CODDING AND ROGERS, P.C.
P.O. BOX 16370
OKLAHOMA CITY, OKLAMHOMA 73113

In re Application of :
Paul L. DeAngelis : Decision on Petition
Serial No. 10/142,143 :
Filed : May 8, 2002
Attorney Docket No.: 45992.007:

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on April 14, 2006 to review the restriction requirement.

BACKGROUND

A review of the file history shows that this application was filed under 35 USC 111 and that the Office set forth a restriction requirement under 35 U.S.C. 121, of claims 1-24 in an office action mailed June 4, 2004. The groupings are reproduced below:

Group I, claims 1-35 and 78-84, drawn to a DNA encoding heparin synthase, a vector and a host cell comprising thereof.

Group II, claims 36 and 63, drawn to a heparin synthase.

Group III, claims 37-45, 54, 55, 73-77 and 108-110, drawn to a composition comprising a heparin polymer.

Group IV, claims 46-49, 66-72 and 112, drawn to a method for producing a heparin polymer *in vitro.*

Group V, claims 50-53, drawn to a method for producing a heparin polymer *in vivo.*

Group VI, claims 56-58, 61 , and 62, drawn to a recombinant cell comprising various enzymes.

Group VII, claims 59, 60, and 111, drawn to a heparin modified *in vivo.*

Group VIII, claims 64 and 65, drawn to a method of use of a DNA of SEQ ID NOS: 1, 3 or 5 encoding a heparin synthase.

Group IX, claims 85-91, drawn to a recombinant cell produced by a specific method.

Group X, claim 92, drawn to a method for producing a heterologous polypeptide.

Group XI, claim 93, drawn to a method for producing a heparin polymer by fermentation of a cell.

Group XII, claims 94-96, drawn to a method for *in vitro* sulfation of a heparin polymer.

Group XIII, claims 97-99, drawn to a polymer produced by epimerizing.

Group XIV, claims 100-102, drawn to heparin polysaccharide.

Group XV, claims 103-106, drawn to a polysaccharide.

Group XVI, claim 107, drawn to a method for producing a heparin polymer *in vitro.*

Group XVII, claims 113 and 114, drawn to a glycosyltransferase.

Group XVIII, claim 115, drawn to a method for producing a heparosan polymer.

The examiner also stated that for Inventions I-VI restriction to one of the following is also required under 35 USC 121. Therefore, election is required of one of inventions I-XVIII and one of inventions (A)-(C).

(A). SEQ ID NO: 1 or a sequence encoding SEQ ID NO: 2.

(B). SEQ ID NO: 3 or a sequence encoding SEQ ID NO: 4.

(C). SEQ ID NO: 5 or a sequence encoding SEQ ID NO: 6.

The examiner stated that the inventions are distinct because Inventions (A)-(C) are unrelated. In the instant case, the different inventions represent structurally different polynucleotides. Therefore, where structural identity is required, such as for hybridization or expression, the different sequences have different effects.

Inventions I-III, VI, VII, IX and XIII-XVII are unrelated. In the instant case, the different Inventions are directed to divergent molecules having different functions and effects such as a DNA, a polymer, an enzyme, and a polysaccharide. The polynucleotides can be used in hybridization assays as well as in expression methods for producing the polypeptides. The enzymes can be used for the production of antibodies. A recombinant cell of Group VI and Group IX comprise various molecules acting in concert while products of Groups I-III, VII and XIII-XVII are isolated chemical compounds. The cells of Groups VI and IX comprise different compounds and have different utilities. The enzymes of Groups II, XVI and XVII have different activities, i.e. functions and utilities and produce different effects. The heparin polysaccharide of Group XIV is structurally and functionally different from the polysaccharide of Group XV.

Inventions IV, V, VIII, X-XII and XVIII are drawn to materially different methods having different utilities, producing different effects and using different protocols and compounds. The methods of Inventions I-IV are drawn to methods of use of distinct compounds having different structures, functions, utilities and producing different products.

Applicant elected Group I, claims 1-35 and 78-84, without traverse in the response filed on April 29, 2005.

The examiner then issued on June 10, 2005 a Notice of a Non-Responsive Amendment stating that applicant did not elect the sequence as required in the previous Office action.

The applicant then filed a response to the Notice on August 10, 2005. Applicant argued that a person of ordinary skill in the art would clearly and unambiguously recognize that the sequences of (A)-(C) are not separate, unrelated inventions but are actually three species of a genus, namely, heparosan synthases. Applicant then quoted section 803.04 of the MPEP which states that "nucleotide sequences encoding the same protein are not considered to be independent and distinct inventions and will....be examined together". Thus, the applicant concluded, the restriction requirement is improper.

Applicant argued that SEQ ID NOS: 2 and 4 both encode heparosan synthases isolated from *Pasteurella multocida*. They stated that both sequences have 617 residues and only differ by one residue. Applicant concluded that since they have 99 % identity to

each other, that it would not be an undue burden on the examiner to examine them together.

The third sequence, SEQ ID NO: 6 was noted as having 73 % identity to the other two sequences. Applicant argued that since this sequence has the same function as the other two sequences that it should be searched along with the other two sequences, and they all encode the same catalyst, a heparosan synthase.

The examiner mailed an Office action on October 28, 2005 stating that unless the applicants unequivocally admit on the record that SEQ ID NOS: 1, 3 or 5 are obvious over each other, they are not considered obvious because one of ordinary skill in the art would not have motivation to make the specific substitutions at the specific positions in order to obtain one sequence from another (note that the proteins encoded by SEQ ID NOS: 1, 3, 5 are SEQ ID NOS: 2, 4, 6).

The examiner also stated that while the function may be the same for the three proteins, the heparosan synthases are structurally different and consequently have different properties that would require divergent considerations and additional search of patent and non-patent documents.

The petition to review the finality of restriction requirement was filed on April 14, 2006.

DISCUSSION

The application, file history and petition have been considered carefully. In the petition, Applicant requests consideration and examination of all three of the sequences (SEQ ID NOS: 2, 4, 6) which were part of elected group I.

Applicant petitioned to have all three sequences of group I searched by the examiner. Applicant quoted MPEP 803.04 stating that they should be allowed to have up to 10 sequences searched and that they are only having three requested to be searched, thus all three sequences should be searched together.

Once again applicant argues that SEQ ID NOS: 2 and 4 share a 99 % sequence identity and SEQ ID NO: 6 shares a 73 % identity with the other two sequences. Further, applicant argues that the protein of SEQ ID NO: 6 has the same function (as a single protein that is a dual-action catalyst that utilizes UDP-GlcUA and UDP-GlcNAc to synthesize heparin) as SEQ ID NOS: 2 and 4, thus it should be searched together with SEQ ID NOS: 2 and 4.

Applicant is partially correct that the examiner has failed to apply a proper standard for restriction in this case. The examiner has failed to establish why SEQ ID NOS: 2 and 4 are restricted from each other. SEQ ID NO: 6 is structurally different enough since it only shares 73 % identity with the other two sequences even if it shares the same function. A reference to SEQ ID NO: 6 would not make SEQ ID NOS: 2 or 4 obvious. Whereas a reference to SEQ ID NOS: 2 or 4 would make the other sequence obvious, thus applicants are partially correct. In reference to the MPEP citation that applicant pointed out, the SEQ ID NO : 6 simply does not share enough of a structural similarity to SEQ ID NO: 2 or 4.

For these reasons, SEQ ID NOS 2 and 4 will be examined together and SEQ ID NO: 6 will not. The previous Office action will be withdrawn as incomplete and a new office action considering also SEQ ID NO: 4 along with SEQ ID No: 2 will be issued.

DECISION

Applicant's petition under 37 CFR 1.144 is **GRANTED-IN-PART** for the reasons set forth above. Any request for reconsideration must be filed within two (2) months of the mailing date of this decision.

SEQ ID NO: 4 will be considered along with SEQ ID NO: 2. The application will be forwarded to the examiner for preparation of a new Office action consistent to this petition decision.

Should there be any questions regarding this decision, please contact Special Program Examiner Marianne Seidel, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 703-872-9306.

George C. Elliott

George Elliott
Director, Technology Center 1600

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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/142,148	05/10/2002	Andrew Mark Nightingale	550-338	2387

23117 7590 02/06/2009
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER
PATEL, SHAMBHAVI K

ART UNIT	PAPER NUMBER
2128	

MAIL DATE	DELIVERY MODE
02/06/2009	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Nixon & Vanderhye, PC
901 North Glebe Road, 11th Floor
Arlington Va 22203

In re Application of Andrew Mark Nightingale et al. Application No. 10/142,148 Filed: May 10, 2002 For: EMULATING MULTIPLE BUS USED WITHIN A DATA PROCESSING SYSTEM	DECISION ON PETITION TO ORDER ENTRY OF AMENDMENT

This paper provides the decision on the petition filed October 14, 2008 to order entry into the above-identified application of an amendment filed June 25, 2008.

RECENT PROSECUTION HISTORY

On May 4, 2007 examiner mailed a non-final Office action after a Request for Continued Examination (RCE). The action contained (i) a rejection of claims 1-10 under 35 U.S.C. 112 first paragraph, as failing to comply with the written description requirement; (ii) a rejection of claims 1-18 under 35 U. S. C. as being directed to nonstatutory subject matter ; (iii) a rejection of claims 1-18 under 35 U.S. C. 102(e) as being anticipated by Noyes (U.S. Patent 6,922,666) and (iv) a rejection of claims 1-18 under 35 U.S.C. 103(a) as obvious over ARM Limited (ARM, hereinafter), "AMBA Specification Manual Rev. 2.0, "published in 1999, in view of Applicants' own admission.

On November 5, 2007 Applicant filed a response including amendments to claims 1, 6, 10 and 15 . The response further included Applicant's remarks and arguments, and a Declaration under 37 CFR 1.132 by Dr. Trevor N. Mudge. In the declaration, Dr. Mudge provided his opinion regarding the rejection of claims under 35 U.S.C. 112 first paragraph, and prior art rejections made in the non-final action.

On January 25, 2008 examiner mailed a final Office action. In the final action, examiner withdrew rejections under 35 U.S.C. 102 and 103 in view of the amendments, rejected claims 1-18 under 112 first paragraph, withdrew the rejection of 1-9 under 35 U.S.C. 101 while maintaining the rejection of claims 10-18 . In addition, claims 1-18 were rejected under 35

U.S.C. 112 second paragraph, claims 1-3, , 8, 10-12 and 17 were rejected under 35 U.S.C. 102(b) as being clearly anticipated by Flynn ("AMBA: Enabling Reusable On-Chip Designs" 1997), and claims 4-7, 9, 13-16 and 18 were rejected under 35 U.S.C. 103(a) as being unpatentable over Flynn ("AMBA: Enabling Reusable On-Chip Designs" 1997) in view of ARM ("AMBA Specification Manual Rev. 2.0" 1999). Further, examiner included a requirement for information under 37 CFR 1.105 requesting Applicant to identify any vested interest that Dr. Trevor Mudge may have in the instant application.

Applicant proposed an amendment after final which included the following: an amendment to claim 1 to overcome the rejection under 35 U.S.C. 112 second paragraph, and a rule 1.132 declaration from Dr. Mudge, along with the information requested under 37 CFR 1.105. In the declaration, Dr. Mudge provided his opinion on all outstanding rejections made in the final Office action.

On July 25, 2008 Applicant filed a Pre-appeal Brief Request for Review presenting arguments based on the 1.132 declaration by Dr. Mudge filed with the after final response.

Examiner issued an Advisory action on July 28, 2008 indicating that the amendment to claim 1 would be entered on Appeal, and the Declaration under 37 CFR 1.132 would not be entered, and all claims stand rejected.

On August 14, 2008 a Notice of Panel Decision on the Pre- appeal brief Review was mailed to Applicant indicating that the application is ready to proceed to Board of Patent Appeals, requiring applicant to submit an Appeal brief in accordance with 37 CFR 41.37.

On September 25, 2008 Applicant filed an Appeal Brief.

Title 37 C.F.R. ∋ 1.181(a) provides

> Petition may be taken to the Commissioner: (1) From any action or requirement of any examiner in the *ex parte* prosecution of an application which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court; (2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Commissioner; and (3) To invoke the supervisory authority of the Commissioner in appropriate circumstances. ...

Applicant petitions to order entry of the proposed amendment to claim 1 and the 1.132 declaration by Dr. Mudge filed with the response after final, because the amendment to claim 1 corrects a typographical error and the Supplemental declaration under 37 CFR 1.132 after final fully responds to the new issues raised by the examiner in the Final rejection.

The petition is **GRANTED**.

The application is being forwarded to the Examiner for preparation of a response to the to the appeal brief filed September 25, 2008.

Wendy Garber, Director
Technology Center 2100

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Paper No. None

Viskase Companies, Inc.
Suite 115
8205 S. Cass Avenue
Darien IL 60561

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AUG 28 2006
OFFICE OF PETITIONS

In re Application of	:	
Stephen J. Vicik et al.	:	
Application No. 10/142,160	:	DECISION ON PETITION
Filed: May 10, 2002	:	UNDER 37 C.F.R. §1.181(A)
Title: NYLON FOOD CASING HAVING	:	
A BARRIER CORE LAYER	:	

This is a decision on the petition filed May 25, 2006, pursuant to 37 C.F.R. §1.181(a), to revive the above-identified application.

BACKGROUND

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed July 20, 2005, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue and publication fees[1]. Accordingly, the above-identified application became abandoned on October 21, 2005. A Notice of Abandonment was mailed on May 16, 2006.

With the present petition, Petitioner has asserted that the Notice of Allowance and Issue Fee Due was not received.

1 See MPEP §710.02(e).

RELEVANT PORTIONS OF THE MPEP AND C.F.R.

MPEP §711.03(c)(I)(A) sets forth, in toto:

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).
To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.
The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions). Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

§ 1.134 Time period for reply to an Office action.

An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

[47 FR 41276, Sept. 17, 1982, effective Oct. 1, 1982; revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997]

§ 1.135 Abandonment for failure to reply within time period.

(a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
(b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
(c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

[Paras. (a), (b), and (c), 47 FR 41276, Sept. 17, 1982, effective Oct. 1, 1982; para. (d) deleted, 49 FR 555, Jan. 4, 1984, effective Apr. 1, 1984; revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997]

ANALYSIS

Petitioner has asserted that she failed to receive the notice in question. Petitioner has provided a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed. Petitioner has also indicated "*my office* (emphasis added) has checked the file jacket of the application and the electronic and paper docket records and we have found that a Notice of Allowance was never received in our office."

It is not clear if Petitioner performed the search herself, and as such, it cannot be determined if the statement pertaining to the search has been made by one having firsthand knowledge of the facts contained therein.

CONCLUSION

Therefore, the petition under 37 C.F.R. §1.181 must be **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. 1.181." This is not a final agency action within the meaning of 5 U.S.C 704.

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

On renewed petition, Petitioner should provide a statement from the individual(s) who reviewed the "file jacket and the electronic and paper docket records." If Petitioner is the individual who performed this search, this point should be clarified on renewed petition.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[5]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

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

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300- please note this is a central facsimile number.
5 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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OFFICE OF PETITIONS

Viskase Companies, Inc.
Suite 115
8205 S. Cass Avenue
Darien IL 60561

In re Application of Stephen J. Vicik et al. Application No. 10/142,160 Filed: May 10, 2002 Title: NYLON FOOD CASING HAVING A BARRIER CORE LAYER	: : : : : :	DECISION ON RENEWED PETITION UNDER 37 C.F.R. §1.181(A)

This is a decision on the renewed petition filed September 1, 2006, pursuant to 37 C.F.R. §1.181(a), to revive the above-identified application.

BACKGROUND

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed July 20, 2005, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue and publication fees[1]. Accordingly, the above-identified application became abandoned on October 21, 2005. A Notice of Abandonment was mailed on May 16, 2006.

With the original petition, Petitioner asserted that the Notice of Allowance and Issue Fee Due was not received.

1 See MPEP §710.02(e).

PROCEDURAL HISTORY

The original petition was received on May 25, 2006, and was dismissed via the mailing of a decision on August 28, 2006. Petitioner asserted that she failed to receive the notice in question, and provided a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed. The petition was dismissed as it was not clear if Petitioner performed the search herself, and as such, it could not be determined if the statement pertaining to the search has been made by one having firsthand knowledge of the facts contained therein.

ANALYSIS

With this renewed petition, the previous deficiency has been rectified. As such, it has been established that the Notice of Allowance and Issue Fee Due was not received. Therefore, the petition under 37 C.F.R. §1.181 is **GRANTED**.

CONCLUSION

The Office of Patent Publication will be notified of this decision. The Office of Patent Publication support staff will re-mail the Notice of Allowance and Issue Fee Due of July 20, 2005,and will set a new period for response.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[2]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

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

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DAVID S RESNICK
NIXON PEABODY LLP
100 SUMMER STREET
BOSTON, MA 02110-2131

Mail Date: 06/25/2010

Applicant	: Shay Soker	: DECISION ON REQUEST FOR
Patent Number	: 7666393	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/142,165	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/09/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **278** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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BRACEWELL & GIULIANI LLP
P.O. BOX 61389
HOUSTON TX 77208-1389

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OFFICE OF PETITIONS

In re Application of Thomas E. Drake, Jr. Application No. 10/142178 Filing or 371(c) Date: 05/09/2002 Title of Invention: SYSTEM AND METHOD FOR CONTROLLING WAFER TEMPERATURE	: : : : : : :	DECISION ON PETITION

This is a decision on the "Petition to Withdraw Withholding of Abandonment Under 37 CFR §1.181," filed November 8, 2007.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Non-Compliant Amendment ("Notice"), mailed September 8, 2006. The Notice set a one (1) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No response having been received, the application became abandoned on October 9, 2006. A Notice of Abandonment was mailed January 31, 2007.

Applicant files the present Petition and asserts that a timely reply to the Notice was filed on September 25, 2006. In support of this assertion, Applicant includes a copy of the reply, along with a copy of an Auto-Reply Facsimile Transmission report from this Office acknowledging receipt of 20 pages from petitioner on September 25, 2006. A review of the copy of the reply filed with the petition reveals that it includes a Certificate of Transmission under 37 CFR 1.8 that the reply was sent on September 25, 2006.

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 extension of time fee has been charged Applicant's deposit account.

The application will be referred to Technology Center Art Unit 2877 for processing of the copy of the Response/amendment filed with the present petition.

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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BRACEWELL & GIULIANI LLP
P.O. BOX 61389
HOUSTON, TX 77208-1389

Mail Date: 04/20/2010

Applicant	: Thomas E. Drake JR.	: DECISION ON REQUEST FOR
Patent Number	: 7612890	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/142,178	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/09/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **558** 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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Bradford Green, Building Five
755 Main Street
P. O. Box 224
Monroe, CT 06468

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NOV 08 2005

OFFICE OF PETITIONS

In re Application of	:	
Eugene P. Sabini, et al.	:	
Application No. 10/142,181	:	ON PETITION
Filed: May 9, 2002	:	
Attorney Docket No. Sabini 10-6-6-3	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 12, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply to a non-final Office action.

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

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

The application file is being referred to Technology Center 3700.

Marianne E. Jenkins
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

MYERS, DAWES & ANDRAS LLP
Suite 1150
19900 MacArthur Blvd.
Irvine, CA 92612

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FEB 13 2003

OFFICE OF PETITIONS

In re Application of:
Doug Wilson, Rex Tumminia, Patrick Moles and Kevin Bryant
Application No. 10/142,186
Filed: May 9, 2002
Title of Invention: WEB BASED SYSTEM AND METHOD FOR ASSET MANAGEMENT

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This Decision is in response to a Petition Under 37 C.F.R. 1.47(a), filed October 3, 2002 (Certificate of Mailing dated September 26, 2002), to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s). A one (1) month extension of time is required and is hereby granted.

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)", and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on June 11, 2002, without a fully executed oath or declaration. Accordingly, on July 5, 2002 a "Notice to File Missing Parts of Nonprovisional Application" (hereinafter "Notice"), was mailed to Petitioner. The Notice required, in relevant part, a fully executed oath or declaration. Applicant was given two-months from the date of the Notice within which to file a fully executed oath or declaration. Extensions of time were available under 37 CFR 1.136(a).

Petitioner responds with the instant petition and a copy of a letter sent to inventor Bryant. The letter contains as enclosures a Declaration for Patent Application and an Assignment. The petition avers that the letter was sent to inventor Bryant, and that Mr. Bryant has failed to respond by mailing back the executed declaration. *Petition* at p.2.

Applicable Law:

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the

application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

As to item (1), the applicant has failed to establish that the nonsigning inventor was ever presented with the application for signature. The Manual of Patent Examining Procedure ("MPEP") states that

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.

MPEP 409.03(d).

Petitioner must send a copy of the entire application, including the specification, claims and drawings, along with the oath or declaration to the nonsigning inventor before refusal can be alleged.

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

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

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

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA 22202

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

Derek L. Woods
Petitions Attorney
Office of Petitions

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

MYERS, DAWES & ANDRAS LLP
Suite 1150
19900 MacArthur Blvd.
Irvine, CA 92612

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MAR 2 4 2003

OFFICE OF PETITIONS

In re Application of:
Doug Wilson, Rex Tumminia, Patrick Moles and Kevin Bryant
Application No. 10/142,186
Filed: May 9, 2002
Title of Invention: WEB BASED SYSTEM AND METHOD FOR ASSET MANAGEMENT

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the Petition Under 37 C.F.R. 1.47(a), filed January 30, 2003, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **granted**.

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

Petitioner has shown that the non-signing inventor, Kevin Bryant, refuses to sign the declaration.

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

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

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

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mr. Kevin Bryant
5318 E. 2nd Street
#215
Long Beach, CA 90803

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MAR 2 4 2003

OFFICE OF PETITIONS

In re Application of:
Doug Wilson, Rex Tumminia, Patrick Moles and Kevin Bryant
Application No. 10/142,186
Filed: May 9, 2002
Title of Invention: WEB BASED SYSTEM AND METHOD FOR ASSET MANAGEMENT

LETTER

Dear Mr. Bryant:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Derek L. Woods at (703) 305-0014. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Petitions Attorney
Office of Petitions

cc: MYERS, DAWES & ANDRAS LLP
Suite 1150
19900 MacArthur Blvd.
Irvine, CA 92612

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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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OFFICE OF PETITIONS

MYERS DAWES ANDRAS & SHERMAN, LLP
19900 MACARTHUR BLVD.,
SUITE 1150
IRVINE CA 92612

In re Application of
WILSON, Doug et al.
Application No. 10/142,186
Filed: May 09, 2002
Attorney Docket No. **6232-A**

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 01, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, assignee filed for bankruptcy, does not meet any of the conditions set forth in 37 CFR 10.40.

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).

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **DOUG WILSON**
23684 EL TORO ROAD
SUITE 1
LAKE FOREST, CA 92630

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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GARLICK HARRISON & MARKISON LLP
P.O. BOX 160727
AUSTIN TX 78716-0727

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MAR 18 2005

OFFICE OF PETITIONS

In re Application of	:
Currivan et al.	: DECISION ON PETITIONS
Application No. 10/142,189	: UNDER 37 CFR 1.78(a)(3)
Filed: 8 May, 2002	: AND
Attorney Docket No. BP2285	: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition filed on 24 August, 2004, which is treated as petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **Granted**.

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

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

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

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Additionally, the instant nonprovisional application was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/151,680, which was filed on 26 March, 2002, for which priority is claimed.

The petition complies with the requirements for a grantable petition under 37 CFR §§1.78(a)(3) and 1.78(a)(6) in that (1) a reference to the prior-filed nonprovisional and provisional applications has been included in an amendment to the first sentence of the specification following the title as provided by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 119(e) to the above-noted, prior-filed nonprovisional and provisional applications satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), the petition is granted.

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

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

Any questions concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. 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 2631 for appropriate action on the amendment submitted on 24 August, 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 application 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

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

ATTACHMENT : Corrected Filing Receipt

Best Available Copy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/26/02

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction on Patent No.: 7110434B2

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

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

Valerie Jackson

Thank You For Your Assistance

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

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

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

Comments:

N. G.
SPE

2611
Art Unit

U.S. Department of Commerce 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
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Paper No. 07282005

AUG 01 2005

FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

In re Application of Ewald Guenther et al Application No. 10/142,208 Filed: May 7, 2002 Title: Encapsulation for Electroluminescent Devices	: : : : :	DECISION ON PETITION

This is a decision on the petition filed January 19, 2005, requesting that the holding of abandonment in the above-identified application be withdrawn.

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

A non-final Office action was mailed on August 8, 2003, setting forth a three-month period of response. The application became abandoned on November 9, 2003 by operation of law.

Petitioner states in the petition that the Notice of Allowance was never received. However, it is apparent from the petition and from the response to the non-final Office action included with the petition that this statement is in error. This petition is being treated as a request to withdraw the holding of abandonment for failure to receive the non-final Office action mailed August 8, 2003.

Petitioner states that the Office action was never received by applicant's prior attorney of record and Attorney Dexter Chin attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received. The petition is accompanied by a copy of Horizon IP Pte Ltd's docket record where the non-received action would have been entered.

Pursuant to M.P.E.P. §711.03(c), it is the petitioner's burden to demonstrate that the non-final Office action 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 file jacket and docket records indicates that the Office action was not received. Further, petitioner has provided a copy of the docket record where the non-received Office action would have been received had it been received and docketed.

Since applicant has made the requisite showing required under M.P.E.P §711.03(c), the holding of abandonment is withdrawn.

The application file is being forwarded to the Technical Support staff for re-mailing the non-final Office action. The shortened period for response set therein will be reset to expire three months from the date the Office action is remailed.

Questions regarding this decision should be directed to Jose' G. Dees at (571) 272-1569.

Janice A Falcone

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Jerome L. Jeffers, Esq.
Bayer Corporation
P. O. Box 40
Elkhart, IN 46515-0040

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OFFICE OF PETITIONS

In re Patent of	:	
Deng et al.	:	
Application No. 10/142,214	:	DECISION
Filed: May 10, 2002	:	ON PETITION
Title of Invention:	:	
ELECTROCHEMICAL SENSOR	:	

This is a decision on the Petition to Revive Unintentionally Abandoned Application or Lapsed Patent (37 CFR 1.137(b), filed May 19, 2005.

The petition is **dismissed**.

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

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed May 20, 2004. The Office action set a three (3) month period for reply. No extensions of time having been obtained under 37 CFR 1.136(a), this application became abandoned on August 21, 2004. A Notice of Abandonment was mailed on February 18, 2005.

Applicant files the instant petition and extension of time request, and in the petition asserts that the reply filed with the petition constitutes a continuing application filed on November 17, 2004; however, no such continuing application has been located among the papers filed on or about November 17, 2004, nor with the petition on May 19, 2005[1].

[1] Office records indicate that applicant filed a three month extension of time request and paid $876.00 on November 18, 2004 and with the instant petition, this time paying $1020.oo for the request, on May 19, 2005. Applicant is advised that an extension of time is only available where the period for

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (**1**) the required reply (unless previously filed); (**2**) the petition fee required by 37 CFR 1.17(m); (**3**) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (**4**) if required, a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). Applicant lacks item (**1**).

As to item (1), Applicant has not submitted a reply to the May 20, 2004 Office action. Applicant must respond to the Office action.

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

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

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

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

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

Derek L. Woods
Petitions Attorney
Office of Petitions

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reply to the Office communication has not expired. Here, the period for reply has expired and the application is abandoned, as such, extensions of time are no longer available.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

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FEB 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Jeffrey S. Hansell, et al.	:	
Application No. 10/142,218	:	DECISION ON PETITION
Filed: May 8, 2002	:	TO WITHDRAW
Attorney Docket No. 6065.P003	:	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 11, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Blakely, Sokoloff, Taylor and Zafman, LLP has been revoked by the assignee of the patent application on October 26, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: GUERIN & RODRIGUEZ, LLP
5 MOUNT ROYAL AVENUE
MOUNT ROYAL OFFICE PARK
MARLBOROUGH, MA 01752

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. 053003

JUN 9 2003

Taufe, Paul
Piper Rudnick LLP
3400 Two Logan Square
18th & Arch Streets
Philadelphia PA USA 19103-2762

In re Application of:
SCHMITZ *et al.*
Application No. 10/142,250
Filed: May 09, 2002
Attorney Docket No. 17641 (1081-R-03)

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102, filed April 08, 2003, to make the above-identified application special.

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

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

The petition satisfies the above requirements. Accordingly, the petition is **GRANTED**.

If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that she/he is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

Inquiries regarding this decision should be directed to Clayton E. LaBalle at (703) 308-0519.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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RICHARD K. WARTHER
ALLEN DYER DOPPELT MILBRATH AND GILCHRIST, P.A.
255 S. ORANGE AVENUE STE 1401
P O BOX 3791
ORLANDO, FL 32802

MAIL

JUL 21 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re application of:
Highsmith, et al.
Application No. 10/142,267
Filed: May 09, 2002
For: POINTO-MULTIPOINT ACCESS NETWORK INTEGRATED WITH A BACKBONE NETWORK

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent and change of address filed on March 07, 2005.

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

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

All of the attorneys/agents associated with this application 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) 272-1986

cc: Daniel Rumsey, Esq.
P-COM, INC.
3175 S. WINCHESTER BLVD
CAMPBELL, CA 95008

UNITED STATES 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

LEAH M. REIMER
CANTOR COLBURN LLP
55 GRIFFIN SOUTH ROAD
BLOOMFIELD, CT 06029

COPY MAILED

JUN 1 0 2004

OFFICE OF PETITIONS

LETTER

In re Application of :
Marc F. Hansen :
Application No. 10/142,275 :
Filed: May 9, 2002 :
Attorney Docket No. UCT-0022

This is in response to the paper filed August 6, 2002 under 37 CFR 1.27(c) seeking status as a small entity.

The Verified Statement Claiming Small Entity Status of August 6, 2002 has been made of record and small entity status has been accorded.

This file is being forwarded to the Files Repository.

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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CANTOR COLBURN LLP
55 GRIFFIN RD SOUTH
BLOOMFIELD CT 06002

COPY MAILED
JAN 0 3 2006
OFFICE OF PETITIONS

In re Application of	:	
Hansen, et al.	:	
Application No. 10/142,275	:	ON PETITION
Filed: May 9, 2002	:	
Attorney Docket No. UCT-0022	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 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 decision within the meaning of 5 USC 704.

The above-identified application became abandoned for failure to timely file a proper reply to the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequences and/or Amino Acid Sequence Disclosures, mailed August 27, 2002, which set n extendable period for reply of two months. No reply having been received, the above-identified application became abandoned on October 28, 2002. A Notice of Abandonment was mailed on February 4, 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).

The instant petition lacks item (1), the required reply.

The Sequence Listing submitted on petition contained errors. A copy of the CRF Problem Report is enclosed for petitioner's convenience.

On renewed petition, petitioner must submit a Sequence Listing (paper and computer readable form) in compliance with 37 CFR 1.821 - 1.825.

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

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: CRF Problem Report (2 pages)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CANTOR COLBURN LLP
55 GRIFFIN RD SOUTH
BLOOMFIELD CT 06002

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JAN 30 2006

OFFICE OF PETITIONS

In re Application of	:	
Hansen, et al.	:	
Application No. 10/142,275	:	ON PETITION
Filed: May 9, 2002	:	
Attorney Docket No. UCT-0022		

This is a decision on the renewed petition under 37 CFR 1.137(b), filed January 17, 2006, to revive the above application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper reply to the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequences and/or Amino Acid Sequence Disclosures, mailed August 27, 2002, which set an extendable period for reply of two months. No reply having been received, the above-identified application became abandoned on October 28, 2002. A Notice of Abandonment was mailed on February 4, 2004. Applicants filed a petition to revive on March 30, 2004. The petition was dismissed in a decision mailed on January 3, 2006. Applicants did not submit a proper Sequence Listing.

On renewed petition, applicants have submitted a Sequence Listing in compliance with 37 CFR 1.821 - 1.825. The other requirements for a grantable petition were previously satisfied with the petition filed on March 30, 2004.

The $740 for a four month extension of time, submitted on March 30, 2004, is unnecessary as the application at that time was already abandoned. Likewise, the $510 for a three month extension of time submitted on January 17, 2006 is unnecessary, but was erroneously charged to counsel's deposit account. In addition, counsel's deposit account was erroneously charged $750 for the renewed petition. Accordingly, Deposit Account No. 06-1130 has been refunded the amount of $2000.

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

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MAR 23 2009

OFFICE OF PETITIONS

In re Patent of Leese et al. :
Patent No. 6,767,718 :
Issue Date: July 27, 2004 :
Application No. 10/142,303 :
Filing Date: May 10, 2002 :
Attorney Docket No. 4408.1000-000 :

Decision on Petition

This is a decision on the petition filed October 27, 2008, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED.**

The patent issued July 27, 2004. The last day of the grace period for paying the 3.5 year maintenance fee was Monday, July 28, 2008. This petition was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e). Therefore, this petition was timely filed under the provisions of 37 CFR 1.378(c).

The petition is signed by Attorney Vivien Tannoch-Magin who was not an attorney of record at the time the patent expired. Nevertheless, the statement by her that the expiration was unintentional 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 expiration was intentional, petitioner must notify the Office.

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.

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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DIRECTORS OFFICE

APR 19 2006

TECHNOLOGY CENTER 2800

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

042006

Gary L. Loser
Varian Semiconductor Equipment Associates, Inc.
35 Dory Road
Gloucester, MA 01930

In re Application of:
Daniel F. Downey
Serial No.: 10/142,313
Filed: May 9, 2002
Attorney Docket No.: V00077/70238 WRM
Title: METHODS FOR FORMING LOW RESISTIVITY, ULTRASHALLOW JUNCTIONS WITH LOW DAMAGE

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

A Final Office action was mailed on July 25, 2005. In the apparent absence of a reply a Notice of Abandonment was mailed on January 31, 2006.

Although no petition or request to withdraw the holding of abandonment in this application has been filed, the Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn in view of the fact that a Request for Continued Prosecution (RCE) along with a submission under 37 C.F.R. § 1.114(c) and a petition for an extension of time of three months were filed on January 27, 2006. The RCE was timely filed because it was accompanied by a certificate of mailing under the provisions of 37 C.F.R. § 1.8(a) with a deposit date of January 25, 2006. The application is not abandoned in fact.

The RCE will be processed and an Office action will be prepared by the examiner in due course.

Any inquiry regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (703) 308-7502.

Robert Oberleitner, Group Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components
Electrical & Optical Systems & Components

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 4

HUGHES & LUCE LLP
1717 MAIN STREET
SUITE 2800
DALLAS TX 75201

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SEP 1 2 2002

OFFICE OF PETITIONS

In re Application of
Stettes, et al.
Application No. 10/142,317
Filed: May 9 2002
Attorney Docket No. 22444
For: SYSTEM FOR WHIPPING A FLUID SLURRY AND METHOD THEREFORE

ON PETITION

This is a decision on the petition, filed July 12, 2002, requesting that the above-identified application be accorded a filing date of May 9, 2002 using the five sheets of drawing figures filed with the above-identified application on May 9, 2002. The petition will be treated under 37 CFR 1.53(e).

The application was filed on May 9, 2002. However, on June 21, 2002, the Office of Initial Patent Examination mailed a Notice Of Omitted Item(s) in a Nonprovisional Application (Notice) stating that the application had been accorded a filing date of May 9, 2002, and advising applicants that Figures 6C and 6D described in the specification appeared to have been omitted.

In response, the present petition was filed. The petition does not allege and is not accompanied by any evidence that any sheets of drawings containing the labels "Figure 6C", and "Fig. 6D" were present in the Office on May 9, 2002. A review of the application file reveals that the specification refers to the drawings in question as "Figure 6C" and "Figures 6D". However, he drawings present in the application file show "Fig. 8" and "Fig. 9"instead of "Figure 6C" and "Figures 6D". Petitioners referred to the drawing figures in an inconsistent manner.

Therefore, the "Notice" mailed June 21, 2002, was correct in advising applicants that Figure 6C and Figure 6D appeared to have been omitted. The "Notice" was properly mailed and will not be withdrawn. The petition fee is required, since the petition was not necessary to correct any PTO error.

To avoid further delay in the examination of the application, a letter to the draftsman correcting the labeling of the drawing figures should be filed prior to the first Office action.

The petition is granted.

The application is being returned the Office of Initial Patent Examination for further processing with the presently accorded filing date of May 9, 2002.

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

E. Shirene Willis

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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LORD CORPORATION
PATENT & LEGAL SERVICES
111 LORD DRIVE
CARY NC 27512

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JAN 0 9 2007

OFFICE OF PETITIONS

In re Application of	:	
Scott R. Durso et al	:	
Application No. 10/142,340	:	DECISION GRANTING PETITION
Filed: May 9, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. IR-2898(IA)	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 25, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an 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 January 20, 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 1771.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 6

MELVIN K. SILVERMAN
500 WEST CYPRESS CREEK ROAD
SUITE 500
FORT LAUDERDALE, FL 33309

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APR 0 7 2004
OFFICE OF PETITIONS

In re Application of	:	
Pierre J. Elliot	:	
Application No. 10/142,341	:	ON PETITION
Filed: May 10, 2002	:	
Attorney Docket No. 1319.01	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 12, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Office action mailed June 5, 2003. Accordingly, this application became abandoned on September 6, 2003.

The file is being forwarded to Technology Center 3600.

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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GENERAL ELECTRIC COMPANY
GLOBAL RESEARCH
PATENT DOCKET RM. BLDG. K1-4A59
SCHENECTADY, NY 12301-0008

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APR 21 2004

OFFICE OF PETITIONS

In re Application of	:
Gerald Burt Kliman et al	:
Application No. 10/142,342	: DECISION GRANTING PETITION
Filed: May 10, 2002	: UNDER 37 CFR 313(c)(2)
Attorney Docket No. 125167	:

This is a decision on the petition, filed April 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 March 22, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

This matter is being referred to Technology Center AU 2858 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Supplemental Information Disclosure Statement.

Frances Hicks

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

WHIRLPOOL PATENTS COMPANY – MD 0750
500 RENAISSANCE DRIVE - SUITE 102
ST. JOSEPH MI 49085

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
K. David McAllister et al :
Application No. 10/142,345 :
Filed: May 9, 2005 :
Attorney Docket No. US20000164 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 18, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply to the Non-final Office action mailed November 26, 2004.

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.

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

The application is being referred to Technology Center AU 1746.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
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Paper No. 8

MILLS & ONELLO, LLP
SUITE 605
ELEVEN BEACON STREET
BOSTON MA 02108

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OCT 2 1 2003

OFFICE OF PETITIONS

In re Application of	:
Merkle, LeVine, Lee, Howard,	: DECISION ACCORDING STATUS
Goldman, Pagliarulo, Hart, and	: UNDER 37 CFR 1.47(a)
Bouza	:
Application No. 10/142,366	:
Filed: 9 May, 2002	:
Attorney Docket No. ECD-0007	:

This is a decision on the renewed petition under 37 CFR 1.47(a) filed on 2 October, 2003 (certificate of mailing date 29 September, 2003).

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor cannot be found. Specifically, petitioners have shown, via the affidavit of petitioner's counsel, Anthony P. Onello, Jr., that a copy of the application was sent to the non-signing inventor's last known address. Despite attempts to determine a more recent address for the non-signing inventor, who is believed to now be residing in Florida, the non-signing inventor could not be located.

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

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the renewed petition, not the declaration. Notice of the filing of this application will also be published in the Official Gazette.

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

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

MILLS & ONELLO, LLP
SUITE 605
ELEVEN BEACON STREET
BOSTON MA 02108

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APR 2 8 2003

OFFICE OF PETITIONS

In re Application of	:
Merkle, LeVine, Lee, Howard,	: DECISION REFUSING STATUS
Goldman, Pagliarulo, Hart, and	: UNDER 37 CFR 1.47(a)
Bouza	:
Application No. 10/142,366	:
Filed: 9 May, 2002	:
Attorney Docket No. ECD-0007	:

This is a decision on the petition under 37 CFR 1.47(a) filed on 21 January, 2003.

The petition is **DISMISSED**.

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

The above-identified application was filed on 9 May, 2002, without an executed oath or declaration. Accordingly, on 18 June, 2002, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring the statutory basic filing fee, an executed oath or declaration, and a surcharge for its late filing. In response, on 21 January, 2003 (certificate of mailing date 16 January, 2003), petitioners submitted a declaration naming James A. Merkle, Jr., Richard B. LeVine, Andrew R. Lee, Daniel G. Howard, Daniel M. Goldman, Jeffrey A. Pagliarulo, John J. Hart, III, and Jose L. Bouza and signed by all joint inventors except Merkle and Bouza on behalf of themselves and joint inventors Merkle and Bouza, a request and payment of the fee for a five (5) month extension of time, the statutory basic filing fee, the late filing surcharge, and the present petition.

Petitioners state that non-signing joint inventors Merkle and Bouza cannot now be located. In support, petitioners have supplied a copy of an envelope sent to joint inventor Merkle, which was returned as undeliverable. Petitioners also state that a letter was sent to joint inventor Bouza, but no response was received.

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

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks items (1) and (5).

In regards to item (1), petitioners have not shown that diligent efforts were made to locate the non-signing inventor Bouza.[1] At a minimum, petitioners must sent or give a copy of the application papers (specification, including the claims, drawings, if any, and the declaration) to the non-signing inventor at the inventor's last known address. Since the letter sent to joint inventor Bouza was not returned as undeliverable, it is presumed that the inventor received it and is not unavailable. As such, before a *bona fide* refusal can be shown, petitioners must provide proof that a copy of the application as filed was sent to Bouza, but that he either refused. orally or in writing, to sign the declaration or did not return it.

A brief Internet search reveals that Bouza may now be living in Boynton Beach, FL. Petitioners may show diligent efforts to locate the non-signing inventor by providing a copy of an envelope showing that a letter sent to the last known address of the non-signing inventor was returned as undeliverable by the post office. Details of the efforts made to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person having first-hand knowledge of

[1] MPEP 409.03(d).

the details. If a more recent address is discovered, petitioners should send or give a copy of the application papers to the inventor at that address.

If the envelope sent to the non-signing inventor at the last known address is returned as undeliverable by the post office, petitioners should provide a copy of the envelope showing that the application was returned as undeliverable with any renewed petition. If the inventor refuses in writing to sign, a copy of that written refusal should be provided with any renewed petition. If the inventor refuses orally, petitioners should submit details of the refusal in an affidavit or declaration of facts by a person having first-hand knowledge of the refusal.

If repeated attempts to contact the non-signing inventor are unsuccessful, petitioners will have shown that despite diligent efforts, the inventor could not be reached.

In regards to item (5), if a more recent last known address is discovered for joint inventor Bouza, that address must be provided with any renewed petition.

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

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

OR (after 1 May, 2003)[2]

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

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

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

---

[2]Effective 1 May, 2003, the U.S. Patent and Trademark Office is changing its address for some mail in preparation for its move to new office space in Alexandria, Virginia beginning at the end of 2003. See 68 Fed. Reg. 14332 (March 25, 2003).

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BLACK LOWE & GRAHAM, PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE, WA 98104

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SEP 2 0 2005

OFFICE OF PETITIONS

In re Application of :
Mark Mandel :
Application No. 10/142,384 :
Filed: May 8, 2002 :
Attorney Docket No. MAND-1-1001 :

ON PETITION

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

The petition is **GRANTED**.

A non-final Office action was mailed October 9, 2003. However, the proposed reply filed on February 11, 2004 was found to be non-compliant. A notice of non-compliant response was mailed July 9, 2004, which set a one (1) month period for reply. A one (1) month extension of time having been obtained pursuant to the provisions of 37 CFR 1.136(a), the date of abandonment of this application is September 10, 2004. A Notice of Abandonment was mailed on April 25, 2005.

The file is being forwarded to Technology Center 3700 for review of the amendment, filed August 11, 2005, *in due course*.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
PO BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 7

KOLISCH HARTWELL, P.C.
520 S.W. YAMHILL STREET
SUITE 200
PORTLAND OR 97204

COPY MAILED

SEP 0 8 2003

OFFICE OF PETITIONS

In re Application of :
Alam et al. :
Application No. 10/142,393 : ON PETITION
Filed: May 8, 2002 :
Attorney Docket No. TVT 302A :

This is a decision on the petition under 37 CFR 1.137(b), filed August 21, 2003, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply timely to the Notice to File Missing Parts of Nonprovisional Application mailed June 18, 2002, which set a two-month extendable period to respond. No extensions of time were obtained pursuant to 37 CFR 1.136(a). Accordingly, this application became abandoned on August 19, 2002. The present petition precedes the mailing of the Notice of Abandonment.

The petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of an executed declaration and surcharge, paid the petition fee, and made the proper statement of unintentional delay.

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/142,393	05/08/2002	Hassan Alam	M-12684 US

CONFIRMATION NO. 9541

OC000000010834326

Skjerven Morrill MacPherson LLP
28th Floor
Three Embarcadero Ctr.
San Francisco, CA 94111

Date Mailed: 09/08/2003

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/21/2003.

- 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).

Christina T. Donnell
CHRISTINA T DONNELL
OP (703) 306-5589

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/142,393	05/08/2002	Hassan Alam	TVT 302A

CONFIRMATION NO. 9541

OC000000010834339

23581
KOLISCH HARTWELL, P.C.
520 S.W. YAMHILL STREET
SUITE 200
PORTLAND, OR 97204

Date Mailed: 09/08/2003

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/21/2003.

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.

Christina T. Donnell

CHRISTINA T DONNELL
OP (703) 306-5589

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DAC

OIPE JC67
AUG 21 2003
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

HASSAN ALAM, PAUL LAWRENCE, RACHMAT HARTONO, KOICHI ARIYOSHI and AHMAD RAHMAN

Serial No.	:	10/142,393	Dated: August 18, 2003
Filed	:	May 8, 2002	Group Art Unit: 2152
For	:	AUTOMATIC DISPLAY OF WEB CONTENT TO SMALLER DISPLAY DEVICES: IMPROVED SUMMARIZATION AND NAVIATION	

RECEIVED
AUG 25 2003
OFFICE OF PETITIONS

MAIL STOP: RESPONSE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

PETITION TO REVIVE APPLICATION PURSUANT TO 37 C.F.R. § 1.137(b)

Pursuant to 37 C.F.R. § 1.137(b) applicant requests revival of the present application which was unintentionally abandoned. The present application became abandoned effective August 18, 2002. Included with this Petition are: (1) a Response to Notice to File Missing Parts of Non-Provisional Patent Application; (2) copy of a Declaration and Power of Attorney form for the parent case (U.S. Patent Application Serial No. 10/076,786); and (3) check in the amount of $715.00 to cover the required petition fee and corresponding fees associated with the Missing Parts Notice.

Please charge our Deposit Account No. 11-1540 for any additional fees which may be required.

A duplicate copy of this sheet is enclosed.

08/22/2003 AWONDAF1 00000048 10142393
01 FC:2453 650.00 OP

Respectfully submitted,

KOLISCH HARTWELL, P.C.

David P. Cooper
Registration No. 33,372
PTO Customer No. 23581
Of Attorneys for Applicant
520 S.W. Yamhill Street, Suite 200
Portland, Oregon 97204
Telephone: (503) 224-6655
Facsimile: (503) 295-6679

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: MAIL STOP: FEE RESPONSES, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on August 18, 2003.

Mandi M. Leighty

Mandi M. Leighty

#3

OIPE JC67
AUG 2 1 2003
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

HASSAN ALAM, PAUL LAWRENCE, RACHMAT HARTONO, KOICHI ARIYOSHI and AHMAD RAHMAN

Serial No.	:	10/142,393	Dated: August 18, 2003
Filed	:	May 8, 2002	Group Art Unit: 2152
For	:	AUTOMATIC DISPLAY OF WEB CONTENT TO SMALLER DISPLAY DEVICES: IMPROVED SUMMARIZATION AND NAVIATION	

RECEIVED
AUG 2 5 2003
OFFICE OF PETITIONS

MAIL STOP: RESPONSE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

PETITION TO REVIVE APPLICATION PURSUANT TO 37 C.F.R. § 1.137(b)

Pursuant to 37 C.F.R. § 1.137(b) applicant requests revival of the present application which was unintentionally abandoned. The present application became abandoned effective August 18, 2002. Included with this Petition are: (1) a Response to Notice to File Missing Parts of Non-Provisional Patent Application; (2) copy of a Declaration and Power of Attorney form for the parent case (U.S. Patent Application Serial No. 10/076,786); and (3) check in the amount of $715.00 to cover the required petition fee and corresponding fees associated with the Missing Parts Notice.

Please charge our Deposit Account No. 11-1540 for any additional fees which may be required. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

KOLISCH HARTWELL, P.C.

David P. Cooper
Registration No. 33,372
PTO Customer No. 23581
Of Attorneys for Applicant
520 S.W. Yamhill Street, Suite 200
Portland, Oregon 97204
Telephone: (503) 224-6655
Facsimile: (503) 295-6679

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: MAIL STOP: FEE RESPONSES, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on August 18, 2003.

Mandi M. Leighty

Mandi M. Leighty

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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MIKAEL HAVLUCIYAN
300 W. BEECH STREET, UNIT 703
SAN DIEGO CA 92101

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OCT 18 2005

OFFICE OF PETITIONS

In re Application of
Jon Steven Dickmeyer et al.
Application No. 10/142,411
Filed: May 9, 2002
Attorney Docket No. 273/178

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1], filed September 29, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office Action mailed November 18, 2004. A response was filed May 9, 2005 with a three month extension of time request, but by Advisory Action of May 24, 2005, petitioner was advised that the response did not place the application in condition for allowance. This application became abandoned on February 19, 2005. Accordingly, a Notice of Abandonment was mailed September 20, 2005.

Petitioner has submitted a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

The application is being forwarded to Technology Center 3714 for processing of the RCE.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

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United States Patent and Trademark Office
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FEB 13 2007

OFFICE OF PETITIONS

Mikael Havluciyan
300 W. Beech Street, Unit 703
San Diego, CA 92101

In re Application of Dickmeyer et al. :
Application No. 10/142,411 : Decision on Petition
Filing Date: May 9, 2002 :
Attorney Docket No. 273/178 :

This is a decision on the petition filed November 21, 2006, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed.**

The Office mailed a Notice of Allowability on July 10, 2006.

The Notice of Allowability set a shortened statutory period for reply of three (3) months.

The Notice required the submission of corrected drawings.

Petitioner did not respond to the Notice of Allowability.

A Notice of Abandonment was mailed November 15, 2006.

35 U.S.C. 133 requires that if an action is mailed, and if an applicant fails to respond to such action within 6 months or within any shorter time period set by the Office, the application goes abandoned as a matter of law. The statute does not distinguish "correct" Office actions from "incorrect" Office actions. An Office action in the form of a Notice of Allowability was mailed July 10, 2006. The Notice provided applicants with three months to file a response. Applicant did not file a response to the Notice of Allowability within 3 months. Therefore, as a matter of law, the application is abandoned.

Abandonment is not based on the correctness, in whole or in part, of an Office action. For example, if an applicant fails to respond to a restriction requirement later determined to be untenable as drafted, the application is abandoned. If an Office action is mailed rejecting claims based on anticipation over a reference that was facially not available as prior art against the application, an applicant must still respond to the Office action in order to avoid abandonment.

Petitioner failed to respond to the Notice of Allowability. Such response could have taken the form of a written traversal stating the facts in the instant petition regarding the original drawings.

Petitioner could have directly contacted the examiner and taken steps to have the examiner withdraw the requirement in writing prior to the expiration of the time period for response.

For the reasons above, the holding of abandonment will not be withdrawn.

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply (already met - the instant petition will be treated as a written traversal), the required petition fee ($750 for a small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. A copy of a blank petition form is enclosed for petitioner's convenience.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision.

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

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Attached: Form PTO/SB/64

PTO/SB/64 (09-06)
Approved for use through 03/31/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	Date
Typed or printed name	Registration Number, if applicable
Address	Telephone Number
Address	

Enclosures:
- ☐ Fee Payment
- ☐ Reply
- ☐ Terminal Disclaimer Form
- ☐ Additional sheets containing statements establishing unintentional delay
- ☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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OFFICE OF PETITIONS

Mikael Havluciyan
300 W. Beech Street, Unit 703
San Diego, CA 92101

In re Application of Dickmeyer et al. :
Application No. 10/142,411 : Decision on Petition
Filing Date: May 9, 2002 :
Attorney Docket No. 273/178 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 26, 2007, to revive the above-identified application.

The petition is **granted**.

The Office mailed a Notice of Allowability on July 10, 2006. The Notice required the submission of corrected drawings. The Notice of Allowability set a shortened statutory period for reply of three (3) months. Petitioner did not respond to the Notice of Allowability. A Notice of Abandonment was mailed November 15, 2006.

The instant petition requests revival of the application.

Petitioner has submitted the required petition fee of $750. Petitioner has submitted a reply to the Notice of Allowability in the form of corrected drawings. Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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

Petitioner has paid the petition fee of $750 twice. Therefore, $750 will be credited back to petitioner's credit card.

Petitioner filed a terminal disclaimer and the fee of $65. A terminal disclaimer is unnecessary since the application was filed after June 8, 1995. The terminal disclaimer will not be entered and the $65 fee will be credited back to petitioner's credit card.

Petitioner submitted a request for a three-month extension of time and $510 for the fee on March 27, 2007. Since the papers filed March 27, 2007, were filed during the period of abandonment of the instant application, payment for an extension of time is unnecessary. Therefore, the $510 will be credited back to petitioner's deposit account.

The Office of Publications will be informed of the instant decision and will review the drawings filed February 26, 2007, and the papers filed March 27, 2007.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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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
10/142,424	05/09/2002	1648	740	39780-3330.220 US C	550	13	2

CONFIRMATION NO. 9466

CORRECTED FILING RECEIPT

OC000000013498611

Ginger R. Dreger
Heller Ehrman White & McAuliffe LLP
275 Middlefield Road
Menlo Park, CA 94025

Date Mailed: 08/11/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Kevin P. Baker, Darnestown, MD;
Maureen Beresini, Moss Beach, CA;
Laura DeForge, Pacifica, CA;
Luc Desnoyers, San Francisco, CA;
Ellen Filvaroff, San Francisco, CA;
Wei-Qiang Gao, Palo Alto, CA;
Mary E. Gerritsen, San Mateo, CA;
Audrey Goddard, San Francisco, CA;
Paul J. Godowski, Hillsborough, CA;
Austin L. Gurney, Belmont, CA;
Steven Sherwood, Los Altos, CA;
Victoria Smith, Burlingame, CA;
Timothy A. Stewart, San Francisco, CA;
Daniel Tumas, Orinda, CA;
Colin K. Watanabe, Moraga, CA;
William I. Wood, Hillsborough, CA;
Zemin Zhang, Foster City, CA;

Assignment For Published Patent Application

Genentech, Inc.;

Domestic Priority data as claimed by applicant

This application is a CON of 10/028,072 12/19/2001
which is a CON of PCT/US00/32678 12/01/2000
which claims benefit of 60/209,832 06/05/2000

Foreign Applications

If Required, Foreign Filing License Granted: 08/23/2002

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Secreted and transmembrane polypeptides and nucleic acids encoding the same

Preliminary Class

435

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUN 20 2006

HELLER EHRMAN LLP
275 MIDDLEFIELD ROAD
MENLO PARK, CA 94025

In re Application of	:
Kevin P. Baker et al	:
Serial No.: 10/142,424	: DECISION ON PETITION
Filed: May 9, 2002	:
Attorney Docket No.: 39780-3330R1C220	:

This letter is in response to the Petition under 37 C.F.R. 1.181, filed May 3, 2006 requesting that the Notice of Non-Compliant Appeal Brief be withdrawn.

BACKGROUND

On September 22, 2004, the examiner mailed a non-Final Office action to applicants, setting a three month shortened statutory period for reply. In the Office action claims 72-84 were rejected under 35 U.S.C. 112, second paragraph, as indefinite. Claims 72-84 were further rejected under 35 U.S.C. 101 as lacking a substantial credible utility and lack of enablement and under 35 U.S.C. 112, first paragraph, for the same reasons. Claims 72-78 and 80 were also rejected under 35 U.S.C. 112, first paragraph for lack of written description. Claims 72-78 and 80 were rejected under 35 U.S.C. 102(a) as anticipated by a protein deposit and claims 83-84 were rejected under 35 U.S.C. 103(a) as unpatentable over the same deposit.

Applicants filed a reply on December 14, 2005, amending claims 72-79 and canceling claim 80-81, and replying to the rejections by relying on arguments involving the concept of "universal control" and including an affidavits by Dr. Smith and Dr. Polakis also utilizing "universal control".

The examiner mailed a Final Office action to applicants on May 23, 2005, maintaining the rejections under 35 U.S.C. 101 and 112, first paragraph for lack of utility and for lack of written description and the rejections under 325 U.S.C. 102(a) and 103(a). The examiner did consider

the Smith affidavit and the examiner did comment and respond to arguments regarding "universal normal control" on pages 2-4 of the action.

Applicants filed an argument after final rejection on June 21, 2005, and this argument does contain an argument regarding "universal control" relating to the Smith affidavit. In an Advisory Action mailed September 14, 2005, the examiner indicated consideration of applicants' arguments and but denied entry thereof, indicating that the amendments raised new issues, and that they were unpersuasive.

Applicants filed a Notice of Appeal on October 19, 2005, and a proper Appeal Brief on February 21, 2006. The Appeal Brief presents arguments with respect to "universal normal control" on pages 12-14 of the Brief.

The examiner mailed Notice of Non-Compliant Appeal Brief to applicants on March 10, 2006, based on applicants' use of the Smith declaration which is directed to another application.

Applicants filed this petition on May 3, 2006, asking that the Notice be withdrawn.

DISCUSSION

Applicants argue that the examiner has held that the Appeal Brief is defective because an affidavit is relied on that is of record in this application filed, but is actually directed to a different application file. The examiner indicates that the affidavit was considered prior to issuance of the Final Office action.

Applicants state that the declaration, although initially provided in a related application, is directed to the same issue in this application that was under consideration in the related application and is therefore pertinent. Applicants also point out that the examiner has considered the affidavit and because of that consideration are entitled to rely on it in their Brief since it was timely submitted and considered.

Applicants' arguments are proper and persuasive that applicants have complied with the Rules of Practice and that the affidavit accompanying the Appeal Brief which was earlier considered does not render the Brief Non-Compliant.

DECISION

For the above reasons, the petition under 37 C.F.R. 1.181 requesting that the Notice of Non-Compliant Appeal Brief be withdrawn is **GRANTED**.

This application will be forwarded to the examiner for consideration of the Appeal Brief filed February 21, 2006, and preparation of the Examiner's Answer or other appropriate action.

There is no fee for this petition and the petition fee paid of $130.00 will be credited to applicants' Deposit Account No. 08-1641, as directed.

Should there by any questions regarding this decision, please contact Special Program Examiner, 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.

John L. LeGuyader
Director, Technology Center 1600

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Paper No.

GOODWIN PROCTER LLP
135 COMMONWEALTH DRIVE
MENLO PARK CA 94025

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JUN 24 2008

OFFICE OF PETITIONS

In re Patent No. 7,309,766	:	DECISION ON REQUEST
Goddard et al.	:	FOR RECONSIDERATION OF
Issue Date: December 18, 2007	:	PATENT TERM ADJUSTMENT
Application No. 10/142,430	:	and
Filed: May 9, 2002	:	NOTICE OF INTENT TO ISSUE
Atty Docket No. 39780-3330R1C22	:	CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)" filed February 19, 2008. Patentees submit that the Patent Term Adjustment shown on the patent should be TWO HUNDRED NINE (209) days, not NINETY-ONE (91) days.

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

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of one hundred eighty-four (184) days.

On December 18, 2007, the above-identified application matured into U.S. Patent No. 7,309,766. The instant request for reconsideration filed February 19, 2008 (Monday, February 18, 2008 was a federal holiday) was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 91 days. Patentees dispute the reductions associated with the filing of an

amendment and request for correction of inventorship filed August 16, 2007.

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; …

In this instance, on August 16, 2007, then applicants filed an amendment under § 1.312 and a request for correction of inventorship. On September 6, 2007, the examiner mailed a response to both papers. Thus, the period of delay (August 16, 2007 to September 6, 2007) pursuant to 37 CFR 1.704(c)(10) is 32 days. No other paper warranting entry of a period of reduction pursuant to 37 CFR 1.704(c)(10) was filed in this application. Accordingly, the periods of reduction of 118 and 7 days entered pursuant to 37 CFR 1.704(c)(10) have been removed.

In view thereof, the patent term adjustment indicated on the patent should be ONE HUNDRED EIGHTY-FOUR (184) 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 ONE HUNDRED EIGHTY-FOUR (184) 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 : 7,309,766

DATED : **December 18, 2007**

INVENTOR(S) : Goddard 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 91 days

Delete the phrase "by 91 days" and insert – by 184 days--

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MAR 28 2008

OFFICE OF PETITIONS

HELLER EHRMAN LLP
275 MIDDLEFIELD ROAD
MENLO PARK CA 94025-3506

In re Application of :
Goddard, et al. : DECISION ON APPLICATION
Application No. 10/142,432 : FOR PATENT TERM ADJUSTMENT
Filed: May 9, 2002 :
Atty. Dkt. No.: 39780-3330.215 :
US C :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)", filed October 17, 2007.

The application for patent term adjustment (PTA) under 37 CFR 1.705(b) is **DISMISSED**.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b), mailed August 8, 2007, indicated a patent term adjustment (PTA) to date of 300 days. The instant application for PTA was timely filed October 17, 2007, prior to submission of the issue fee payment.

The correct PTA at the time of the allowance is 300 days, as indicated on the Determination of Patent Term Adjustment mailed August 8, 2007.

Applicants do not dispute the adjustment of 518 days for Office delay under 37 CFR 1.702(a)(1). Applicants do [redacted] dispute the reductions totaling 223 days.

Applicants, however, dispute the reduction of five days in connection with the mailing of the final Office action on November 30, 2006. In this regard, applicants argue that the application is entitled to an adjustment of eight days. Applicants argue that the four month period of time for the USPTO to mail either an action under 35 USC 132 or a Notice of Allowance under 35 USC 151 pursuant to 37 CFR 1.703(a)(3) ended on November 22, 2006.

The application is entitled to an adjustment of five days in accordance with 37 CFR 1.702(a)(2) for the Office's failure to respond to a reply under 37 CFR 1.111 not later than four months

after the date on which the reply was filed. In accordance with 37 CFR 1.703(a)(2), the adjustment began November 26, 2006, the day after the date that is four months after the date that applicants' reply under 37 CFR 1.111 was filed, and ended November 30, 2006, the date that the final Office action was mailed.

In view thereof, at the time of allowance, the application was entitled to a patent term adjustment of 300 days, as indicated on the Determination of Patent Term Adjustment.

Applicants are further advised that the patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

Receipt is hereby acknowledged of the required patent term adjustment application fee of $200.00.

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

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery Fries

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

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THE LAW OFFICE OF JOHN A. GRIECCI
703 PIER AVE., SUITE B #657
HERMOSA BEACH CA 90254

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Yoshida, Shuichiro :
Application No. 10/142,439 :
Filed: May 10, 2002 :
Attorney Docket No. SHO 1010-01US :

This is a decision on the petition under 37 CFR 1.181, filed November 7, 2005, requesting the withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 C.F.R. § 1.181 is **GRANTED**.

The above-identified application was held abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed July 13, 2005, which set a statutory period for reply of three (3) months. A reply was due on or before October 13, 2005.

Petitioner states that the Notice of Allowance was never received. 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.

Petitioner has complied with the above conditions. Accordingly, it is concluded that the Office action was never received.

[1] See MPEP 711.03(c) and notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

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

A petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 does not require a fee and none has been charged.

This matter is being referred to Technology Center 3700 for the remailing of the Notices mailed on July 13, 2005.

Telephone inquiries should be directed to Petitions Examiner Liana Chase at (571) 272-3206. All other questions should be directed to the Technology Center.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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700 SYLVAN AVENUE
BLDG C2 SOUTH
ENGLEWOOD CLIFFS, NJ 07632-3100

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OFFICE OF PETITIONS

In re Application of	:	
Earl Carroll Eichelberger et al	:	
Application No. 10/142,452	:	DECISION GRANTING PETITION
Filed: May 10, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. F6150(V)	:	

This is a decision on the petition, filed September 6, 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 7, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1761 for processing of the request for continued examination under 37 CFR 1.114.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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LATHROP & GAGE, LC
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SUITE 2800
KANSAS CITY, MO 64108

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OFFICE OF PETITIONS

In re Application of	:	
Chen, et al.	:	
Application No. 10/142,455	:	DECISION GRANTING PETITION
Filed: May 10, 2002	:	
Attorney's Docket No. 400299	:	

This is a decision on the petition styled, "Petition To Correct Filing Date," filed on November 14, 2002, which has been treated as a petition under 37 CFR 1.53(e) to accord the above-identified application a filing date of May 10, 2002.

On May 10, 2002, the application was filed. On June 12, 2002, the Office of Initial Patent Examination mailed a "Notice To File Missing Parts Of Nonprovisional Application" stating that the application had been accorded a filing date and that a signed oath or declaration was required. A two (2)-month period for reply was set. In response, on August 12, 2002, applicant timely submitted the required oath or declaration with fee. Additionally, applicant had noticed that the specification submitted May 10, 2002, makes reference to Figure 1, however the Figure was inadvertently not submitted with the application as filed. As such, applicant submitted on August 12, 2002, a Preliminary Amendment which inserted Figure 1 into the application. Applicant stated in the Preliminary Amendment that "Figure 1 was not necessary for the understanding of the subject matter sought to be patented, that it was not new matter and was merely a graphical representation of the results of Example 1, and ... was part of and filed with priority application serial numbers 60/323,984 and 60/305,174, which provisional applications were incorporated in the above-identified application by reference."

Applicant then received a second filing receipt dated September 4, 2002 which indicated a new filing date of August 12, 2002. In response, applicant filed the instant petition.

It is noted that the first paragraph of the specification, filed May 10, 2002, claimed priority to, and incorporated by reference, the disclosures of prior provisional applications 60/305,174 and 60/323,984. 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), <u>without the need for a petition</u>. (emphasis supplied)

In view of the incorporation by reference of the prior applications, the drawing of Figure 1 is not new matter since it was a part of the disclosure of the prior applications.

Accordingly, the petition is <u>granted</u>. The petition fee of $130.00 is unnecessary and will be refunded to counsel's deposit account, No. 12-0600.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of May 10, 2002, and for an indication on the bib-data sheet that no (0) sheets of drawings were present on filing. The application will then be forwarded to Technology Center 1700 for review of the Preliminary Amendment filed August 12, 2002.

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

Christina Tartera Donnell for

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

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250 PARK AVENUE
SUITE 825
NEW YORK, NY 10177-0899

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OFFICE OF PETITIONS

In re Application of :
Anchung Chang et al :
Application No. 10/142,461 : DECISION ON PETITION
Filed: May 10, 2002 :
Attorney Docket No. 01-0128 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 10, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit corrected formal drawings on or before June 8, 2006, as required by the Notice of Allowability, mailed March 8, 2006. (The issue and publication fees were timely received on May 30, 2006.) Accordingly, the date of abandonment of this application is June 9, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected formal drawings, which have been approved by the Official Draftsperson (note attachment; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay. Accordingly, the failure to timely submit corrected formal drawings is accepted as being unintentionally delayed.

The drawings have been approved by the USPTO draftsperson.

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

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

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice of Draftsperson's Patent Drawing Review (PTO-948)

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STEPHEN E FELDMAN PC
12 EAST 41ST STREET
7TH FLOOR
NEW YORK NY 10017

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OFFICE OF PETITIONS

In re Application of	:	
Bruce Kaminstein	:	
Application No. 10/142,489	:	ON PETITION
Filed: May 9, 2002	:	
Title: Outdoor Broom	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 1, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a reply to the Notice to File Corrected Application Papers, mailed June 14, 2002, which set an extendable period for reply of two (2) months for applicant to submit corrected drawings. No drawings having been received, the application became abandoned on August 15, 2002. A Notice of Abandonment was mailed on January 21, 2004.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted corrected drawings.

The matter is being forwarded to the Office of Initial Patent Examination for pre-examination.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

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OFFICE OF PETITIONS

In re Patent No. 6,711,067	:	
Issue Date: March 23, 2004	:	
Application No. 10/142,523	:	NOTICE UNDER 37 CFR. 1.28(c)
Filed: May 05, 2002	:	
Attorney Docket No. **20930-06371**	:	

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

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

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

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

Inquiries related to this communication should be directed to the Michelle R. Eason at (571) 272-4231.

Thurman Page
Petitions Examiner
Office of Petitions

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PPG INDUSTRIES INC
INTELLECTUAL PROPERTY
DEPT
ONE PPG PLACE
PITTSBURGH, PA 15272

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OFFICE OF PETITIONS

In re Application of

Sawant, et al. :

Application No. 10/142,564

: DECISION ON PETITION

Filed: May 8, 2002

:

Attorney Docket No. 8303.0054

This is a decision on the petition under 37 CFR 1.137(b), filed April 12, 2006, 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 August 18, 2005, which set a shortened statutory period for reply of three (3) months from its mailing date. A response was filed on September 28, 2005. An Advisory Action mailed October 12, 2005, advised petitioner that the response of September 28, 2005, failed to place the application in condition for allowance. No further responses were filed within the allowable period. The application became abandoned on November 19, 2005. A Notice of Abandonment was mailed on June 1, 2006.

The Request for Continued Examination filed April 12, 2006, is noted and made of record

The application is being forwarded to Technology Center1700, GAU 1712 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Director's Office
Group 3700

In re Application of
Philippe Maingault *et al*
Application No. 10/142,568
Filed: May 9, 2002
Attorney Docket No. 5562/2

DECISION ON PETITION

This is a decision on the petition filed on May 18, 2004 by which petitioners request admission of a model in the form of a sample. The petition is filed pursuant to 37 CFR 1.91, and the $130.00 petition fee has been paid.

The petition is dismissed.

The regulation, and MPEP § 608.03, require a petition of this type to accompany the filing or submission of the model or exhibit. MPEP § 608.03(a) is specific with respect to how a model or exhibit so filed would be treated in an Image File Wrapper (IFW) application. This application is in fact an IFW application, but there is no evidence in the record that the sample has been filed. That is there is no artifact folder shown in the IFW system.

Petitioners may renew the petition without fee, provided that the renewed petition is filed within two months of the date of this decision. The renewed petition should be accompanied by the sample that applicant wishes to submit, and should positively so state. It would be helpful if petitioners labeled the submitted sample as requiring that it be entered into an artifact folder, MPEP § 608.03(a).

The application remains pending, awaiting a reply to the outstanding Office letter dated September 1, 2004.

PETITION DISMISSED.

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700

David Loewenstein
802 King Street
Rye Brook, NY 10573

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Patent Operations
Two Independence Way
P. O. Box 5312
Princeton NJ 08543-5312

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OFFICE OF PETITIONS

In re Application of
Rumreich, et al.
Application No. 10/142,573
Filed: May 9, 2002
Attorney Docket No. PU020024

DECISION ON PETITION

This is a decision on the petition under the unintentional delay provisions of 37 CFR 1.137(b), filed February 8, 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 29, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed March 29, 2006. Accordingly, the date of abandonment of this application is June 30, 2006. A Notice of Abandonment was mailed on August 3, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioners have supplied (1) the reply in the form of payment of the issue fee of $1,400.00 and the publication fee of $300.00, (2) the petition fee of $1,500.00; and (3) a proper statement of unintentional delay.

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

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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In re Patent No. 6822881
Issue Date: November 23,2004
Application No. 10142586
Filed: May 9,2002
Attorney Docket No. DE010249

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

This is a decision on the electronic petition, filed June 2,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 2,2009 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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P.O. Box 1450
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Date October 30, 2007

Patent No. : 7,266,775
Inventor(s) : Amy Patitucci
Issued : September 4, 2007
Title : METHOD FOR RETRIEVING INFORMATION FROM AN INFORMATION
: REPOSITORY

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.

Applicants' proposed request to change data on the Title Page; Item (63) Related Application Data is not warranted. The changes as presented in the Letters Patent is the result of a decision made by the examiner and is therefore considered in accordance with the records of the Patent and Trademark Office. Accordingly, the Preliminary Amendment dated July 26, 2002 was not entered by the Examiner.

In view of the forgoing applicants' request in this matter is hereby denied.

Further consideration may be obtained with the submission of a new request filed under 37 CFR 1.323, together with the required certificate of correction fee of $100.00 or a request for reconsideration under 37 CFR 1.322 including documentation to support applicants claim.

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

Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 305-8309 or (703) 305-9380 ext. 183

Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin, NJ 08830

CBN/arg

UNITED STATES PATENT AND TRADEMARK OFFICE

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

INTERVET US
PATENT DEPARTMENT
PO BOX 318
MILLSBORO DE 19966-0318

COPY MAILED

AUG 3 0 2005

OFFICE OF PETITIONS

In re Application of		
H. Nijs De, et al.	:	
Application No. 10/142,604	:	DECISION ON
Filed: April 8, 2002	:	PETITION
Attorney Docket No. 99467 US C1	:	

This is in response to the petition to withdraw the holding of abandonment under 37 C.F.R. § 1.181, filed February 4, 2004, and the petition under 37 C.F.R. § 1.137(b), filed June 3, 2005.

The petition under 37 C.F.R. § 1.181 is **GRANTED**.

The petition under 37 C.F.R. § 1.137(b) is **DISMISSED** as moot.

The above-identified application was held abandoned for failure to timely respond to the Notice to File Corrected Application Papers mailed June 26, 2002. This Office action set a period for reply of two (2) months. No extensions of time were available under 37 C.F.R. §1.136(a) were obtained. No reply having been received, the above-identified application became abandoned on August 27, 2002. A Notice of Abandonment was mailed on January 22, 2004.

A review of the record reveals that applicants did timely file a response on July 19, 2002 (Certificate of Mailing dated July 12, 2002). However, the response contained the wrong serial number. Nevertheless, the response did contain other correct identifying information, such as the name of the inventor, filing date, and title of the invention. Accordingly, the response did contain enough information to enable it to be properly matched with the correct file.

In view of the above, the holding of abandonment is **WITHDRAWN**.

Given the basis for granting this decision, the $1500 petition fee for the petition to revive under 37 C.F.R. § 1.137(b) is unnecessary and has been refunded to Deposit Account No. 02-2334.

The application file is being forwarded to the Office of Initial Patent Examination for completion of pre-examination, using the response filed July 20, 2002 (copy resupplied on petition filed February 4, 2004).

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

John C. McMahon
PO Box 30069
Kansas City, MO 64112

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JUN 30 2006

OFFICE OF PETITIONS

In re Patent of	:	
Roger P. Jackson	:	
Application No. 10/142,614	:	DECISION
Filed: May 9, 2002	:	ON PETITION
Title of Invention:	:	
CLOSURE FOR OPEN-HEADED MEDICAL	:	
IMPLANT	:	

This is a decision on the Petition to Revive an Unintentionally Abandoned Application Under 37 CFR 1.137(b), filed June 13, 2006.

The petition is **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed November 8, 2005. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned February 9, 2006.

With the instant petition, Applicant has filed a Request for Continued Examination ("RCE"), and an Amendment.

In view of the above, the petition is granted.

This application is being referred to Technology Center 3731 for processing of the RCE and Amendment in due course.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 17

CHARLES K. VEENSTRA, ESQ.
DELPHI TECHNOLOGIES, INC.
P O BOX 5052
M/C 480-410-202
TROY, MI 48007-5052

COPY MAILED

OCT 3 1 2003

OFFICE OF PETITIONS

In re Application of
Ronald Helmut Haag et al
Application No. 10/142,641
Filed: May 10, 2002
Attorney Docket No. DP-306074

DECISION GRANTING PETITION
UNDER 37 CFR 313(c)(2)

This is a decision on the petition, filed October 30, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 27, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2858 for processing of the request for continued examination under 37 CFR 1.114.

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).

OIPE JC99
OCT 0 7 2002
PATENT & TRADEMARK OFFICE

MP/$
10/10

Attorney Docket No. A-71091/RMS/DHR
Dorsey & Whitney Matter No. 467802-70

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Inventor:	LORENS et al.		
Appln. No.:	10/142,648		
Filing Date:	8 May 2002	Examiner:	Not yet assigned
Title:	BI-DIRECTIONALLY CLONED RANDOM cDNA EXPRESSION VECTOR LIBRARIES, COMPOSITIONS AND METHODS OF USE	Group Art Unit:	1653

FILING OF MISSING PARTS OF APPLICATION UNDER 37 CFR 1.53(f)

Box **MISSING PARTS**
Commissioner for Patents
Washington, D.C. 20231

I hereby certify that this document is being sent via First Class U.S. mail addressed to: Commissioner for Patents, **Box Missing Parts**, Washington, D.C. 20231 on 30 September 2002.

By: Mari Kleineidam
Mari Kleineidam

Dear Sir:

In response to the Notice To File Missing Parts of Application - Filing Date Granted, mailed on 28 May 2002, pursuant to 37 CFR 1.53(f), the following documents are enclosed:

1. Executed Declaration and Power of Attorney;
2. Executed Power of Attorney by Assignee with **COPY** of Assignment;
3. Copy of the Notice to File Missing Parts of Application (Part 2 to be returned with Response);
4. Petition for Extension of Time of two months;
5. Check #1757 in the amount of $811.00 including payment of the filing fee of $370.00; two-month extension of time fee of $200.00; surcharge of $65.00 for filing the late Declaration; extra claims fee of $36.00 for four total claims over twenty; and the multiple dependent claim fee of $140.00; and
6. Return Receipt Postcard.
7. Copy of Statement and Preliminary Amendment RE Sequence Listing, as filed 30 September 2002

Serial No.: 10/142,648
Filed: 8 May 2002

The Commissioner is authorized to charge any deficiencies or credit any overpayments to Deposit Account No. 50-2319, referencing **Order No. A-71091/RMS/DHR, 467802-70**.

Respectfully submitted,

DORSEY & WHITNEY LLP

Date: 9/30/02

By: Robin M. Silva

Robin M. Silva
Reg. No. 38,304
Submitted under 37 C.F.R. §1.34(a)
Four Embarcadero Center
Suite 3400
San Francisco, CA 94111-4187
(415) 781-1989

OIPE JC99
OCT 07 2002
PATENT & TRADEMARK OFFICE

#5

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
10/142,648	05/08/2002	James Lorens	A-71091/RMS/DHR

CONFIRMATION NO. 9421

FORMALITIES LETTER

OC000000008194722

DORSEY & WHITNEY LLP
Suite 3400
Four Embarcadero Center
San Francisco, CA 94111-4187

Date Mailed: 05/28/2002

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

10/09/2002 BABRAHA1 00000127 10142648

FILED UNDER 37 CFR 1.53(b)

01 FC:201 370.00 OP
02 FC:205 65.00 OP
03 FC:203 36.00 OP
04 FC:204 140.00 OP

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.
  Applicant must submit $ **370** *to complete the basic filing fee for a small entity.*
- The oath or declaration is missing.
  A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of $65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.

- This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing", an initial paper or compact disc copy of the "Sequence Listing", as well as an amendment directing its entry into the application. Applicant must also provide a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

For questions regarding compliance to these requirements, please contact:

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

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.

- Additional claim fees of **$176** as a small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$611** for a Small Entity

- **$370** Statutory basic filing fee.
- **$65** Late oath or declaration Surcharge.
- Total additional claim fee(s) for this application is **$176**
  - **$36** for **4** total claims over 20.
  - **$140**for multiple dependent claim surcharge.

---

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

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

OIPE JC54
OCT 04 2002
PATENT & TRADEMARK OFFICE

Attorney Docket No. A-71091/RMS/DHR
Dorsey & Whitney Matter No. 467802-70

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Inventor:	LORENS et al.		
Appln. No.:	10/142,648		
Filing Date:	8 May 2002	Examiner:	Not yet assigned
Title:	BI-DIRECTIONALLY CLONED RANDOM cDNA EXPRESSION VECTOR LIBRARIES, COMPOSITIONS AND METHODS OF USE	Group Art Unit:	1653

FILING OF MISSING PARTS OF APPLICATION UNDER 37 CFR 1.53(f)

Box **MISSING PARTS**
Commissioner for Patents
Washington, D.C. 20231

I hereby certify that this document is being sent via First Class U.S. mail addressed to: Commissioner for Patents, **Box Missing Parts**, Washington, D.C. 20231 on 30 September 2002.

By: Mari Kleineidam
Mari Kleineidam

COPY

Dear Sir:

In response to the Notice To File Missing Parts of Application - Filing Date Granted, mailed on 28 May 2002, pursuant to 37 CFR 1.53(f), the following documents are enclosed:

1. Executed Declaration and Power of Attorney;
2. Executed Power of Attorney by Assignee with **COPY** of Assignment;
3. Copy of the Notice to File Missing Parts of Application (Part 2 to be returned with Response);
4. Petition for Extension of Time of two months;
5. Check #1757 in the amount of $811.00 including payment of the filing fee of $370.00; two-month extension of time fee of $200.00; surcharge of $65.00 for filing the late Declaration; extra claims fee of $36.00 for four total claims over twenty; and the multiple dependent claim fee of $140.00; and
6. Return Receipt Postcard.
7. Copy of Statement and Preliminary Amendment RE Sequence Listing, as filed 30 September 2002

Serial No.: 10/142,648
Filed: 8 May 2002

The Commissioner is authorized to charge any deficiencies or credit any overpayments to Deposit Account No. 50-2319, referencing **Order No. A-71091/RMS/DHR, 467802-70**.

Respectfully submitted,

DORSEY & WHITNEY LLP

Date: 9/30/02

By: Robin M. Silva

Robin M. Silva
Reg. No. 38,304
Submitted under 37 C.F.R. §1.34(a)
Four Embarcadero Center
Suite 3400
San Francisco, CA 94111-4187
(415) 781-1989

OIPE JC54
OCT 0 4 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
10/142,648	05/08/2002	James Lorens	A-71091/RMS/DHR

CONFIRMATION NO. 9421

FORMALITIES LETTER

OC000000008194722

DORSEY & WHITNEY LLP
Suite 3400
Four Embarcadero Center
San Francisco, CA 94111-4187

Date Mailed: 05/28/2002

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 statutory basic filing fee is missing.
  Applicant must submit $ **370** *to complete the basic filing fee for a small entity.*
- The oath or declaration is missing.
  A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of $65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.

- This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing", an initial paper or compact disc copy of the "Sequence Listing", as well as an amendment directing its entry into the application. Applicant must also provide a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

For questions regarding compliance to these requirements, please contact:

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- **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**

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The item(s) indicated below are also required and should be submitted with any reply to this notice to avoid further processing delays.

- Additional claim fees of $**176** as a small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is $**611** for a Small Entity

- $**370** Statutory basic filing fee.
- $**65** Late oath or declaration Surcharge.
- Total additional claim fee(s) for this application is $**176**
  - $**36** for **4** total claims over 20.
  - $**140**for multiple dependent claim surcharge.

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
AMB

Paper No. 9

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

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JUL 2 5 2003

OFFICE OF PETITIONS

In re Application of
Kotas, et al.
Application No. 10/142,655
Filed: May 9, 2002
Attorney Docket No. AMAZON.075A1

ON PETITION

This is a decision on the petitions filed June 26, 2003 under 37 CFR 1.183 for waiver of revival fee and under 37 CFR 1.137(b) for revival of the above-identified application.

Petitioner filed a nonpublication request on May 9, 2002. On October 29, 2002, petitioner mailed rescission request to the USPTO[1]. This request was received November 4, 2002. Petitioner herein states that the instant application is the subject matter of international application No. PCT/US02/34853 filed October 30, 2002. Petitioner herein has satisfied the notification of foreign filing requirement, however, the USPTO was not notified of the international filing within 45 days. Therefore, the application became abandoned December 16, 2002 pursuant to 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing[2].

DECISION UNDER 37 CFR 1.183

Petitioner seeks waiver of the fee requirement of 37 CFR 1.137(b)(2) pursuant to 37 CFR 1.183.

In accordance with 35 USC 41(a)(7), a petition for revival of an unintentionally abandoned application must be accompanied by the petition fee set forth in 37 USC 1.17(m). Accordingly, the Office has no discretion to waive the fee requirement.

Accordingly, the petition under 37 CFR 1.183 for waiver of the requirement of 37 CFR 1.137(b)(2) is hereby **DISMISSED**.

---

[1] The statutory requirements of 35 USC 122(b)(2)(B)(ii) provide that an applicant may rescind a nonpublication request at any time.

[2] The statutory requirements of 35 USC 122(b)(2)(B)(iii) provide that an applicant who has made a nonpublication request but who subsequently files, in a foreign country or under a multilateral international agreement, an application directed to the invention disclosed in the application filed in the Patent and Trademark Office, shall notify the Director of such filing not later than 45 days after the date of the filing of such foreign or international application. Failure to provide such notice within the prescribed period shall result in the application being regarded as abandoned, unless it is shown to the satisfaction of the Director that the delay in submitting the notice was unintentional.

DECISION UNDER 37 CFR 1.137(b)

A petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply which is met by the notification of filing in a foreign country or under a multinational international agreement; (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 found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely notify the Office within 45 days of the filing of an application in a foreign country or the filing of an application under an international multinational agreement as required by 35 USC 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

Enclosed please find a corrected filing receipt setting forth a projected date of publication along with official Notice Regarding Rescission of Nonpublication Request.

Petitioner is advised that the filing of a petition pursuant to 37 CFR 1.137(b) for failure to notify the Office of a foreign filing in accordance with 35 USC 122(b)(2)(B)(iii) **will not** relieve petitioner of the obligation to reply to any outstanding Office action.

This application is being forwarded to the Office of Initial Patent Examination for further processing thereafter the application will be forwarded to Technology Center 3600 to await receipt of applicant's response to the outstanding non-final Office action.

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

Alesia M. Brown
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

MAILED
FROM DIRECTORS OFFICE

AUG 1 2 2005

TECHNOLOGY CENTER 3600

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

In re Application of : **DECISION ON PETITION**
Kotas, et al. : **TO WITHDRAW THE**
Application No. 10/142,655 : **HOLDING OF ABANDONMENT**
Filed: May 9, 2002 :
For: SERVICES FOR GENERATION OF ELECTRONIC MARKETPLACE LISTINGS USING PERSONAL PURCHASE HISTORIES OR OTHER INDICIA OF PRODUCT OWNERSHIP

This is a decision on the Petition to Withdraw the Holding of Abandonment filed in the United States Patent and Trademark Office on March 15, 2005.

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

☐ Postcard receipt being dated _____.

☐ USPTO return facsimile receipt dated _____.

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

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

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

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

☒ Originally sent response, filed April 08, 2004.

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

RAR/rjc: 07/20/05

Randolph A. Reese
Special Programs Examiner
Group 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

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

COPY MAILED

JUL 2 1 2003

OFFICE OF PETITIONS

In re Application of :
Roseman, et al. :
Application No. 10/142,656 : ON PETITION
Filed: May 9, 2002 :
Attorney Docket No. AMAZON.075A :

This is a decision on the petition, filed June 30, 2003 (certificate of mailing date June 23, 2003), under 37 CFR 1.137(f), which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application. Petitioner also requests waiver of the revival fee under 37 CFR 1.183.

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

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

Petitioner filed a nonpublication request on May 9, 2002. On October 29, 2002, petitioner mailed a rescission request to the USPTO. This request was not received until November 4, 2002. As petitioner is aware, a rescission request under rule 213(b) does not serve as a foreign filing notice under rule 213(c) unless the rescission request is actually received in the USPTO before the foreign or international application is filed.

Petitioner is advised that it is not sufficient for an applicant to merely rescind a previously filed nonpublication request without also notifying the Office that the subject application will be filed in a foreign country or under a multilateral international agreement. The filing of a rescission of a nonpublication request does not imply that the invention has been or will be filed in another country or under a multilateral international agreement that requires publication after 18 months of filing.

Furthermore, 35 USC 122(b)(2)(B)(ii) addresses rescission. If all rescissions provided notice of foreign filing, then 35 USC 122(b)(2)(B)(iii), which requires applicants to provide notice of foreign filing within a set time period, would have provided that the "rescission specified in clause (ii) must be filed no later than 45 days after the date of the foreign filing." Instead clause (iii) merely specifies that an "applicant who has made a request under clause (I)...shall notify the Director of such a filing no later than 45 days after the date of such filing and does not itself require such an applicant to rescind the nonpublication request. Implicit in providing notice of foreign filing is a rescission of the nonpublication request, but not vice versa. Thus, the statute

clearly identifies rescission of a nonpublication request and notification of a foreign filing as two separate acts, an a rescission in and or itself cannot be construed as notice of foreign filing.

In the instant petition, petitioner states that the above-identified nonprovisional application is the subject of an application filed in a foreign country on October 30, 2002. This satisfies the notification of foreign filing requirement. However, the fact remains that U.S. Patent and Trademark Office was unintentionally not notified of the PCT filing within 45 days of the filing of the PCT.

In view of the above, this application became abandoned on December 16, 2002 (December 15, 2002 being a Sunday) 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 or under a multilateral treaty 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.

Regarding petitioner's request to waive the petition fee, petitioner is reminded that the rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on the filing of each petition. *See* 35 USC 41(a)(7). 35 U.S.C. 41 (a)(7) provides that a petition for the revival of an unintentionally abandoned application must be accompanied by the petition fee set forth in 37 U.S.C. 1.17(m). The word "shall" appears in 35 U.S.C. 41 (a)(7) pertaining to the applicant's payment of a petition fee on the filing of a petition for revival. It is well settled that the use of "shall" in a statute is the language of command, and where the directions of a statute are mandatory, then strict compliance with the statutory terms is essential. Farrel Corp. V. U.S. Int'l Trade Comm'n, 942 F.2d 1147, 20 USPQ2d 1912 (Fed. Cir. 1991). The payment of the statutory fee is obligatory upon the applicant and collection of the statutory fee is likewise obligatory upon the Office. Boyden v. Commissioner of Patents, 441 F.2d 1041, 1043, 168 USPQ 680, 681 (D.C. Cir.), *cert denied* 404 U.S. 842, 868, 171 USPQ 312 (1971); see also Giuliani v. U.S., 8 USPQ2d 1095 (D. Hi. 1988), *aff'd mem.*, 878 F. 2d 1444 (Fed. Cor. 1989). The Office has no discretion to proceed in the absence of such payment. Boyden, supra. Thus, 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.

Therefore, the petition under 37 CFR 1.183 to waive the petition fee is dismissed. Pursuant to petitioner's authorization, the petition fee of $1,300.00 will be charged to deposit account no. 11-1410.[1]

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(I) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of October 23, 2003 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (703) 308-6712.

This application is being forwarded to Technology Center Art Unit 3600 for examination in due course.

E Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

Enclosure: Notice Regarding Rescission of Nonpublication Request

[1] Effective January 1, 2003, the large entity fee for filing a petition to revive under the unintentional standard is $1,300.00.

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. 8

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

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JUL 2 1 2003

OFFICE OF PETITIONS

In re Application of	:	
Bezos, et al.	:	
Application No. 10/142,657	:	ON PETITION
Filed: May 9, 2002	:	
Attorney Docket No. AMAZON.075A2	:	

This is a decision on the petition, filed June 26, 2003 (certificate of mailing date June 23, 2003), under 37 CFR 1.137(f), which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application. Petitioner also requests waiver of the revival fee under 37 CFR 1.183.

The petition under 37 CFR 1.137(b) and the petition under 37 CFR 1.183 are **DISMISSED AS MOOT**.

Petitioner filed a nonpublication request on May 9, 2002. However, the Office did **not** acknowledge this request. As a result, the application was published on May 1, 2003. Because pregrant publication was not impacted by the filing and subsequent rescission of the nonpublication request, both petitions are dismissed as moot. The $130 petition fee will be credited to deposit account no. 11-1410.

In the future, petitioner is encouraged to examine his filing receipt to ascertain whether or not a nonpublication request was acknowledged by the Office and to use USPTO forms regarding nonpublication (PTO/SB/35) and rescission (PTO/SB/36).

After the mailing of this decision, the application file will be forwarded to Technology Center 3600 for examination in due course.

Further inquiries regarding this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 6

BLACK LOWE & GRAHAM, PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE, WA 98104

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JUN 28 2005

OFFICE OF PETITIONS

In re Application of
Crawford, Gary
Application No. 10/142,676
Filed: May 10, 2002
Attorney Docket No. CITC-1-1002

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 7, 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 August 26, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on November 27, 2003. A Notice of Abandonment was mailed March 9, 2004.

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

The file is being forwarded to Technology Center 3700 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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PATTI & BRILL
ONE NORTH LASALLE STREET
44TH FLOOR
CHICAGO, IL 60602

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MAY 0 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Peter Gregory	:	
Application No. 10/142,686	:	ON PETITION
Filed: May 10, 2002	:	
Attorney Docket No. 61721-021 (GTC-301)	:	

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on November 12, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed December 24, 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) was obtained. Accordingly, the above-identified application became abandoned after midnight March 24, 2004. A Notice of Abandonment was mailed September 23, 2004.

Petitioner argues that a petition to revive is not necessary since copendency existed between the two applications. Petitioner explains that a continuation application was filed on June 24, 2004, "the exact six-month due date of the Final Office Action mailed December 24, 2003." While petitioner admits that no extension of time was filed in the prior application, the continuation application contained an authorization to "charge any additional fee(s) or any underpayment of fees(s)."

Petitioner's argument is not well taken. In this case, a petition for extension of time was required in the prior application for the purpose of maintaining copendency with the continuing application. While the continuing application contained a general authorization to charge fees, the general authorization can only be construed as a constructive petition for extension of time in the continuation application, not the prior application where it was needed. MPEP 710.02(e) specifically cautions applicants stating that "...an extension of time will not be effected in the prior application by filing a petition for an extension of time, extension fee, or fee authorization, in the continuing application. This is because the petition for an extension of time (or constructive petition under **37 CFR 1.136(a)(3)**) must be directed toward and filed in the application to which it pertains in accordance with **37 CFR 1.4** and 1.5". Accordingly, a petition under 37 CFR 1.137(b) and fee are necessary to revive the instant application.

Since petitioner's deposit account contained insufficient funds, the petition is **dismissed**.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (**1**) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (**2**) the petition fee required by 37 CFR 1.17(m); (**3**) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (**4**) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (2) above.

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 the undersigned at (571) 272-3226.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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CHICAGO IL 60602

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AUG 1 6 2005

OFFICE OF PETITIONS

In re Application of	:	
Peter Gregory	:	
Application No. 10/142,686	:	ON PETITION
Filed: May 10, 2002	:	
Attorney Docket No. 61721-021 (FTC-301)	:	

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

The Office hereby acknowledges receipt of an authorization to charge $1,500 for the petition to revive fee, and $980 for a three (3) month extension of time. However, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the extension of time submitted with the petition on May 23, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Since petitioner has now met the requirements to revive this application, pursuant to 37 CFR 1.137(b), the petition is **GRANTED**.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above application, this application is again abandoned in favor of continuing application No. 10/876,327.

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

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

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OFFICE OF PETITIONS

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

In re Patent No. 6,957,770
Issue Date: October 25, 2005
Application No. 10/142,687
Filed: May 10, 2002
Attorney Docket No. 3041-5501US

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed December 11, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on October 25, 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.

Petitioner included an additional petition fee of $810, which will be refunded to Deposit Account No. 06-0916, since this fee is not required.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

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

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

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PERKINS COIE LLP
P.O. BOX 2168
MENLO PARK CA 94026

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OFFICE OF PETITIONS

In re Patent No. 7,160,296	:	
Issued: January 9, 2007	:	
Application No. 10/142,713	:	ON PETITION
Filed: May 10, 2002	:	
Attorney Docket No: 37167-8044.US00	:	

This is a decision regarding your request for acceptance of a fee deficiency submission and loss of small entity status filed February 16, 2007 under 37 CFR 1.28.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc.. 154 F.33d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

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

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted and the petition is **GRANTED**. Status as a small entity has also been removed.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3282.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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OFFICE OF PETITIONS

In re Application of
Sewon Kang, et al.
Application No. 10/142,724
Filed: May 9, 2002
Attorney Docket No. 100UM-014A

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed November 30, 2005.

The petition is GRANTED.

The application became abandoned for failure to pay the issue fee on or before November 25, 2005. This decision precedes the mailing of a Notice of Abandonment. Receipt is acknowledged of the requisite issue/publication fee on November 30, 2005.

The application is being referred 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 (571) 272-4200.

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. 8

HAMILTON BROOK SMITH & REYNOLDS PC
530 VIRGINIA ROAD
PO BOX 9133
CONCORD MA 01742-9133

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APR 0 7 2003

OFFICE OF PETITIONS

In re Application of Woodward, et al. Application No. 10/142,731 Filed: May 8, 2002 Attorney Docket No. 3223.1000-001	: : : : :	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed October 22, 2002.

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

The above-identified application was filed on May 8, 2002, without the statutory basic filing fee and an oath or declaration. Accordingly, on June 17, 2002, petitioner was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring the statutory basic filing fee and an executed oath or declaration (together with the surcharge for its late filing). This Notice set a two-month period for reply.

In reply, applicant filed the instant petition and paid the statutory basic filing fee and the surcharge for late filing of the declaration. To make timely this reply, applicant obtained a two month extension of time and included a Certificate of Mailing dated October 17, 2002. Accompanying the petition was a declaration executed by joint inventors Mark L. Woodward, E. Oliver Jones, Gene S. Fein, Steve S. Sherman, Bennie Jones, and Anthony Salotto, but lacking a signature from joint inventor Christopher Harris.

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 inventors.

On petition, attorney C. Steven Kurlowecz detailed his transmittal of the application papers to Harris. According to Kurlowecz, Harris made an oral refusal to sign the declaration in a telephone conversation on October 16, 2002.

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

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

The application file is being forwarded to Technology Center 2100, Group Art Unit 2165, for docketing.

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

CHRISTOPER HARRIS
28 PINE GROVE
AMHERST MA 01002

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APR 0 7 2003

OFFICE OF PETITIONS

In re Application of :
Mark L. Woodward, E. Oliver Jones, :
Gene S. Fein, Christopher Harris, :
Steve S. Sherman, Bennie Jones, and : LETTER
Anthony Salotto :
Application No. 10/142,731
Filed: May 8, 2002
Title: METHOD, APPARATUS AND PROGRAM PRODUCT FOR MEDIA IDENTIFICATION AND TRACKING ASSOCIATED USER PREFERENCES

Dear Mr. Harris:

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

Cliff Congo
Petitions Attorney
Office of Petitions

C. Steven Kurlowecz
Hamilton, Brook, Smith & Reynolds, P.C.
530 Virginia Road P.O. Box 9133
Concord, MA 01742-9133
(978)341-0036

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/142,738	05/09/2002	Richard Fontana	120-115	8829

7590 03/12/2010

Ward & Olivo
Suite 300
382 Springfield Avenue
Summit, NJ 07901

EXAMINER
MARSH, STEVEN M

ART UNIT	PAPER NUMBER
3632	

MAIL DATE	DELIVERY MODE
03/12/2010	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

MAR 12 2010

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WARD & OLIVO
Suite 300
382 Springfield Avenue
Summit, NJ 07901

In re Application of	:	*SUA SPONTE*
Fontana et al.	:	RECISSION OF NOTICE
Application No.: 10/142,738	:	OF ABANDONMENT
Filed: May 9, 2002	:	
For: CORNER CLIMBER	:	

A review of the application reveals that a final rejection was mailed out on April 2, 2008. The final rejection contained a statement that made it unclear as to whether the Office action was non-final or final rejection. On April 23, 2008, applicant submitted a response requesting a reissuance of the previous office action with a clarification as to whether the Office action was non-final or final. On July 10, 2008, examiner sent out an Interview Summary informing applicant that the Office action of April 2, 2008 would be re-sent to clarify that the Office action was non-final. On December 24, 2008, the examiner sent out a Notice of Abandonment.

When an Office action is sent out with contradictory statements as to whether the action is non-final or final, it is assumed that the Office action is non-final. Therefore, the Office action mailed on April 2, 2008 should have been a non-final rejection. Consequently, applicant's response on April 23, 2008 constitutes a response to the non-final rejection. Examiner should have sent out a Notice of Non-Responsive amendment and set a 30 day time period for response.

In view of these facts, the abandonment of the application was clearly improper and is hereby rescinded. The application will revert to pending status in order for the examiner to send out a Notice of Non-Responsive for the response received on April 23, 2008.

Inquires related to this decision may be directed to Supervisory Patent Examiner J. Allen Shriver at (571) 272-6698.

Katherine Matecki

Katherine A. Matecki, Director
Technology Center 3600
(571) 272-5250

LM
Jas/lm: 3/3/2010

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Paper No. 7

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2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

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JUL 2 5 2003

OFFICE OF PETITIONS

In re Application of
Dalzell, et al.
Application No. 10/142,743
Filed: May 9, 2002
Attorney Docket No. AMAZON.075A

ON PETITION

This is a decision on the petitions filed June 26, 2003 under 37 CFR 1.183 for waiver of revival fee and under 37 CFR 1.137(b) for revival of the above-identified application.

Petitioner filed a nonpublication request on May 9, 2002. On October 29, 2002, petitioner mailed rescission request to the USPTO[1]. This request was received November 4, 2002. Petitioner herein states that the instant application is the subject matter of international application No. PCT/US02/34853 filed October 30, 2002. Petitioner herein has satisfied the notification of foreign filing requirement, however, the USPTO was not notified of the international filing within 45 days. Therefore, the application became abandoned December 16, 2002 pursuant to 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing[2].

DECISION UNDER 37 CFR 1.183

Petitioner seeks waiver of the fee requirement of 37 CFR 1.137(b)(2) pursuant to 37 CFR 1.183.

In accordance with 35 USC 41(a)(7), a petition for revival of an unintentionally abandoned application must be accompanied by the petition fee set forth in 37 USC 1.17(m). Accordingly, the Office has no discretion to waive the fee requirement.

Accordingly, the petition under 37 CFR 1.183 for waiver of the requirement of 37 CFR 1.137(b)(2) is hereby **DISMISSED**.

---

[1] The statutory requirements of 35 USC 122(b)(2)(B)(ii) provide that an applicant may rescind a nonpublication request at any time.

[2] The statutory requirements of 35 USC 122(b)(2)(B)(iii) provide that an applicant who has made a nonpublication request but who subsequently files, in a foreign country or under a multilateral international agreement, an application directed to the invention disclosed in the application filed in the Patent and Trademark Office, shall notify the Director of such filing not later than 45 days after the date of the filing of such foreign or international application. Failure to provide such notice within the prescribed period shall result in the application being regarded as abandoned, unless it is shown to the satisfaction of the Director that the delay in submitting the notice was unintentional.

DECISION UNDER 37 CFR 1.137(b)

A petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply which is met by the notification of filing in a foreign country or under a multinational international agreement; (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 found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely notify the Office within 45 days of the filing of an application in a foreign country or the filing of an application under an international multinational agreement as required by 35 USC 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

Enclosed please find a corrected filing receipt setting forth a projected date of publication along with official Notice Regarding Rescission of Nonpublication Request.

Petitioner is advised that the filing of a petition pursuant to 37 CFR 1.137(b) for failure to notify the Office of a foreign filing in accordance with 35 USC 122(b)(2)(B)(iii) **will not** relieve petitioner of the obligation to reply to any outstanding Office action.

This application 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) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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RESEARCH TRIANGLE PARK NC 27709-3828

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JUN 28 2007

OFFICE OF PETITIONS

In re Application of
DANY D. SYLVAIN
Application No. 10/142,805
Filed: 05/08/2002
Attorney Docket No. 7000-148

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed March 22, 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 26, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. On March 27, 2007, the Office mailed a Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing. On March 29, 2007, the Office mailed a Notice of New or Revised Projected Publication Date. Both communications indicated that the projected publication date for this application is July 5, 2007.

This matter is being referred to the Office of Patent Publications.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : 10/03/07

Patent No. : 7257109 B2
Ser. No. : 10/142,805
Inventor(s) : SYLVAIN, DANY D.
Issued : 08/14/07
Title : **DYNAMIC CALL CONTROL**

Docket No. : 7000-148

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

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

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

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

Lamonte M. Newsome

Lamonte M. Newsome
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 #112 or (703) 308-8309

NORTEL NETWORKS
P O BOX 13828
RESEARCH TRIANGLE PARK NC 27709-3828

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IRVINE, CA 92614

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OCT 2 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Jerry L. Farrar et al	:	
Application No. 10/142,807	:	ON PETITION
Filed: May 9, 2002	:	
Attorney Docket No. CARSON.12CCCP1	:	

This is a decision on the petition under 37 CFR 1.313(c), filed October 21, 2005, which is being treated under 37 CFR 1.313(c)(2), to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 15, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 3635 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

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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 21, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Jerry L. Farrar et al
Application No. : 10/142,807
Filed : May 9, 2002

The above-identified application has been assigned Patent No. 6,957,520 and an issue date of October 25, 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 25, 2005:

"All reference to Patent No. 6,957,520 to Jerry L. Farrar et al of Banning, CA for PROCESS FOR RETROFITTING AN EXISTING BUS WINDOW HAVING RUBBER SEALS WITH METAL MEMBERS THAT DEFINE A RETENTION SPACE FOR A SACRIFICIAL MEMBER appearing in the Official Gazette of October 25, 2005 should be deleted since no patent was granted."

Wan Layton
Petitions Examiner
Office of Petitions

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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A PROFESSIONAL ASSOCIATION
P.O. BOX 142950
GAINESVILLE, FL 32614-2950

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JAN 27 2005

OFFICE OF PETITIONS

In re Application of	:
Levinson, et al.	: DECISION ON PETITIONS
Application No. 10/142,812	: UNDER 37 CFR 1.78(a)(3) AND
Filed: May 10, 2002	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 10436-035-999	:

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed August 2, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§120, 365(c) and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **granted**.

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

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant application was filed on May 10, 2002and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). *See* 35 U.S.C. §§ 120 and 365(c) and § 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §§ 120 and 365(c) and § 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

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

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

This application is being forwarded to Technology Center 1600 for appropriate action on the amendment submitted August 2, 2004, including consideration by the examiner of the claim under 35 U.S.C. § §120 and 365(c) and 37 CFR 1.78(a)(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.

Any questions concerning this matter may be directed to Petitions Attorney Edward Tannouse at (571)272-3228.

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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Paper No. 7

JAMES S. FINN
C/O CHANG-FENG WAN
16210 SHADY BANK DRIVE
DALLAS, TX 75248

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AUG 0 2 2004

OFFICE OF PETITIONS

In re Application of	:	
Chang-Feng Wan	:	
Application No. 10/142,821	:	ON PETITION
Filed: May 9, 2002	:	
Attorney Docket No. Finn-0004	:	

This is a decision on the petition filed February 17, 2004, under 37 CFR 1.137(a), or, in the alternative, under 37 CFR 1.137(b) 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**.

This application became abandoned for failure to timely submit a reply to the Notice to File Corrected Application Papers (Notice) on or before August 20, 2002 as required by the Notice mailed June 20, 2002. A Notice of Abandonment was mailed on January 21, 2004.

ISSUE

Petitioner states that the failure to timely reply was caused by nonreceipt of the Notice (which was mailed to the applicant by the USPTO) from the applicant to petitioner herein. As a result thereof, petitioner was unaware that a requirement had been made to file corrected application papers until receipt of the Notice of Abandonment.

REQUIREMENTS FOR A GRANTABLE 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; (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).

APPLICABLE LAW

35 U.S.C § 133 states:

> Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable.

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

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

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982).

ANALYSIS OF PETITION UNDER 37 CFR 1.137(a)

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. § 133 and 37 CFR 1.137(a). *See*

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

More specifically, the petition fails to (1) provide evidence of nonreceipt of the Notice mailed to petitioner by the applicant (copy of file jacket/docket records, or log of incoming correspondence); (2) state what was mailed and/or provide a copy of the correspondence stated to have been mailed by the applicant to petitioner herein; (3) provide evidence of the mailing from the applicant to petitioner (how was it mailed; i.e., certified mail, Express Mail, etc.); (4) provide statements from all persons having knowledge of the mailing of the correspondence by applicant to petitioner herein; and (5) provide statements from all persons receiving and handling mail in petitioner's office who would be in a position to have firsthand knowledge of the nonreceipt of the applicant's letter.

Petitioner is reminded that 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). Under the circumstances, petitioner has not carried his burden of proof to show that the delay was unavoidable as required by statute and by regulations of the Patent and Trademark Office.

ANALYSIS OF PETITION UNDER 37 CFR 1.137(b)

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply (drawings); (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Office action of June 20, 2002 is accepted as having been unintentionally delayed.

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

This application is being returned to the Office of Initial Patent Examination for preexamination processing.

Frances Hicks

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

30 SEP 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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Dr. Gregory W. Price
15 Bugendore Street
MaidaVale, W.A. 6057
AUSTRALIA

In re Application of:	:	
PRICE, Gregory, Walter	:	COMMUNICATION
Application No.: 10/142,834	:	
Filing Date: May 13, 2002	:	
Attorney Docket No.: None	:	
For: INTERACTIVE-MODIFIED	:	
INTERACTIVE EVENT RELATED	:	
POTENTIAL (IMIERP)	:	

This application is before the Office Of PCT Legal Administration for issues arising under 35 U.S.C. 371.

BACKGROUND

On November 08, 2000, applicant filed international application PCT/AU00/01374 which claimed a priority date of November 15, 1999 and which designated the United States. The deadline for submission of the basic national fee was thirty months from the priority date, i.e., May 15, 2002.

On May 13, 2002, applicant initiated the present U.S. application by filing a Utility Patent Application Transmittal (Form PTO/SB/05), with accompanying materials. The Form PTO/SB/05 Transmittal letter used by applicant specifically states that it is for use "[o]nly for new nonprovisional application under 37 CFR 1.53(b)." Among the materials accompanying the submission was payment of the small entity filing fee for a U.S. utility application and a declaration that executes international application PCT/AU00/01374.

Applicant's May 13, 2002 submission also included a document entitled "Specification Sheet." This document included a subsection entitled "Cross Reference To Related Application" that reads as follows: "This application represents the national phase of the PCT application PCT/AU00/01374, filing date 11/08/2000. I enclose the PCT communication and search report for reference only." Applicant's submission did not include an amendment to incorporate this cross-reference information into the application.

On September 25, 2002, the USPTO mailed a filing receipt that identified the present application as "a 371 of PCT/AU00/01374."

On June 07, 2004, the USPTO mailed a "Notice Of Allowance and Fee(s) Due."

On July 13, 2004 applicant submitted the required issue and publication fees.

DISCUSSION

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). See 37 CFR 1.495(g):

> The documents and fees submitted ... must be clearly identified as a submission to enter the national stage under 35 U.S.C. 371, otherwise the submission will be considered as being made under 35 U.S.C. 111.

In addition, section 1893.03(a) of the MPEP states the following:

> If there are any conflicting instructions as to whether the filing is under 35 U.S.C. 111(a) or 35 U.S.C. 371, the application will be accepted as filed under 35 U.S.C. 111(a).

As noted above, applicant's May 13, 2002 filing included a Form PTO/SB/05 Transmittal letter that specifically states that it is for use "[o]nly for new nonprovisional application under 37 CFR 1.53(b)." In addition, the submission was accompanied by the $370 small entity filing fee for a U.S. utility application, not the small entity basic national fee required for entry into the national stage under 35 U.S.C. 371 (such fee was $520 at the time). The use of the Form PTO/SB/05 Transmittal letter and the submission of the U.S. utility fee are inconsistent with the intent to enter the National State under 35 U.S.C. 371. Accordingly, the original papers filed on May 13, 2002 must be treated as a filing under 35 U.S.C. 111(a), not a national stage filing under 35 U.S.C. 371. The filing receipt mailed on September 25, 2002, which identified the application as a "371 of PCT/AU00/01374" is therefore appropriately vacated.

CONCLUSION

The present application is a U.S. utility application filed under 35 U.S.C. 111(a) on May 13, 2002. USPTO records will be updated accordingly.

The filing receipt mailed September 25, 2002, which identified the application as a national stage of PCT/AU00/01374 filed under 35 U.S.C. 371, is hereby **VACATED**.

It is noted that the present application does not include a proper claim of benefit to international application PCT/AU00/01374 or the Australian priority application identified in PCT/AU00/01374. If applicant desires to add such claims, a proper and timely request to withdraw the application from issue must be submitted under 37 CFR 1.313, along with a Request for Continued Examination (RCE) (Form PTO/SB/30) under 37 CFR 1.114 (see MPEP δ 706.07(h)), with the required fee of $790. The RCE should also be accompanied by the submission required to claim the desired benefit claims. With respect to the benefit claim directed to the international application itself, such materials would include an amendment or Application Data Sheet (ADS) adding the required reference to the international application (37

CFR 1.78(a)(2)), and a petition for acceptance of the delayed claim of benefit (37 CFR 1.78(a)(3)), with the required $1500 fee. With respect to a benefit claim to the Australian priority application listed in the international application, such materials would include a certified copy of the Australian application, the claim of priority (37 CFR 1.55(a)), and a petition for acceptance of the unintentionally delayed priority claim (37 CFR 1.55(c)). [1]

Richard M. Ross
PCT Petitions Attorney
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

[1] Regarding the fees noted above, if applicant qualifies as a small entity under 37 CFR 1.27 the fees would be one-half of the indicated amount. Applicant may view the relevant test on the USPTO's web site, www.uspto.gov.

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

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APR 21 2006

OFFICE OF PETITIONS

In re Patent No. 6,979,275	:	
Issued: December 27, 2005	:	LETTER REGARDING PTA AND
Application No. 10/142,865	:	NOTICE OF INTENT TO ISSUE
Filed: May 13, 2002	:	CERTIFICATE OF CORRECTION
Atty. Dkt. No.: 023971-0132	:	

This letter is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT," filed January 19, 2006. The Office thanks patentees for their good faith and candor in bringing this to our attention.

The above-identified application matured into U.S. Pat. No. 6,979,275 on December 27, 2005. The patent issued with a PTA of 138 days. Patentees, however, indicate that the correct patent term adjustment (PTA) is 135 days. Patentees attribute the error in PTA to the adjustment accorded in connection with the amendment after final rejection submitted August 19, 2004.

A review of the application history for the instant patent reveals that patentees are in fact correct in that the patent is entitled to an adjustment 135 days. As disclosed by patentees, the amendment filed in response to the final rejection mailed April 19, 2004 was filed on August 19, 2004, not August 16, 2004. Thus the adjustment of 228 days for office delay under 37 CFR 1.702(b) is properly reduced a total of 93 days in accordance with 37 CFR 1.704(b)[1].

In view thereof, at the time of issuance, the application was entitled to 135 days of PTA, as indicated by patentees.

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

---

[1] The adjustment 228 days is properly reduced 62 days in connection with the response after non-final Office action submitted February 9, 2004. The adjustment is further properly reduced 31 days (not 28 days) in connection with the amendment after final office action submitted August 19, 2004.

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 135 days.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Alesia M. Brown at (571) 272-3205.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 6,979,275 B2

DATED : December 27, 2005

INVENTOR(S) : Hiraku, 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 138 days

Delete the phrase "by 138 days" and insert – by 135 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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Vineet Kumar
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Reston, VA 20191

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FEB 14 2007

OFFICE OF PETITIONS

In re Application of	:	
KUMAR	:	
Application No.: 10/142,869	:	DECISION ON PETITION
Filing Date: May 13, 2002	:	UNDER 37 CFR 1.137(B)
Attorney Docket No.: (none)	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 24, 2006, to revive the above-identified application.

The petition is **DISMISSED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 16, 2006 (copy attached), which set a three (3) month shortened statutory period for response. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, by operation of law, the above-identified application became abandoned on August 17, 2006.

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before June 8, 1995.

The instant petition does not satisfy requirements (1) and (2) above. Specifically, the petition is not accompanied by a reply to the non-final Office action mailed May 16, 2006 and the requisite $750.00 petition fee under 37 CFR 1.17(m).

Although the petition states that a change of correspondence address was mailed to the Office on November 12, 2004, a review of the application file reveals that such paper is not present.

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

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

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

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

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

Any questions concerning this matter may be directed to Bryan Lin at (571) 272-3303.

Bryan Lin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: copy of non-final Office action mailed May 16, 2006

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.
10/142,869	05/13/2002	Vineet Kumar		1588

7590 05/16/2006

VINEET KUMAR
1821-204 SYCAMORE VALLEY DRIVE
RESTON, VA 20190

EXAMINER
SAM, PHIRIN

ART UNIT	PAPER NUMBER
2616	

DATE MAILED: 05/16/2006

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

Office Action Summary	Application No.	Applicant(s)	
	10/142,869	KUMAR, VINEET	
	Examiner	Art Unit	
	Phirin Sam	2616	

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

Period for Reply

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

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

Status

1)☒ Responsive to communication(s) filed on *13 May 2002*.

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

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

Disposition of Claims

4)☒ Claim(s) *1-18* is/are pending in the application.

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

5)☒ Claim(s) *4-10 and 16-18* is/are allowed.

6)☒ Claim(s) *1-3 and 11-15* is/are rejected.

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

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

Application Papers

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

10)☒ The drawing(s) filed on *13 May 2002* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

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

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

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

Priority under 35 U.S.C. § 119

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

a)☐ All b)☐ Some * c)☐ None of:

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

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

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

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

PHIRIN SAM
PRIMARY EXAMINER

Attachment(s)

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

DETAILED ACTION

Drawings

1. The drawings are objected to because, in figures 1A, 1B, 3, 4A, 5, and 6 a, some of blocks are not dark enough to see or examine. Therefore, corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Oath/Declaration

2. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not include the signature of the inventor.

Claim Rejections - 35 USC § 103

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

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

4. Claims 1-3 and 11-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6,778,557 (hereinafter referred as "Yuki") in view of US Patent 6,807,426 (hereinafter referred as "Pankaj").

Yudi discloses the invention (**claims 1-3 and 11-15**) as claimed including a method for forming group of transmitter stations in a network (see Fig. 1, col. 11, lines 51-57) so stations in the group collectively transmit a frame of data (see Figs. 11a, 11b, and 12, col. 16, lines 37-67, and col. 17, lines 1-28), the network including a plurality of stations including the group of transmitter stations (see Fig. 1, elements 10-1 to 10-m and 20, col. 11, lines 51-54), a communication medium between neighbor stations (see Fig. 1, elements 30-1 to 30-m and 30, col. 11, lines 58-63), the method comprising:

(a) a predetermined maximum round-trip propagation delay on the communication medium between neighbor stations in the group of transmitter stations, in the network (see Fig. 12, col. 17, lines 13-28).

Yudi does not disclose having less than a predetermined maximum round-trip propagation delay. However, Pankaj discloses having less than a predetermined maximum round-trip propagation delay (see col. 23, lines 29-47). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine having less than a

predetermined maximum round-trip propagation delay teaching by Pankaj with Yudi. The motivation for doing so would have been to provide to distinguish among classes of users read on abstract. Therefore, it would have been obvious to combine Pankaj and Yudi to obtain the invention as specified in the claims 1-3 and 11-15.

Allowable Subject Matter

5. Claims 4-10 and 16-18 allowed.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phirin Sam whose telephone number is (571) 272-3082. The examiner can normally be reached on a compress schedule, from 8:00-5:30, first Wed off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on (571) 272 - 3134. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Respectfully submitted,

Date: May 12, 2006

PHIRIN SAM
PRIMARY EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

ROBERT N. O'BRIEN
2614 QUEENSWOOD DRIVE
VICTORIA, BC V8N1X-5
CANADA

COPY MAILED

MAR 17 2004

OFFICE OF PETITIONS

In re Application of	:	
Robert N. O'Brien	:	
Application No. 10/142,872	:	
Filed: May 13, 2002	:	
Title of Invention: PROCESS FOR MAKING	:	DECISION ON
A LIQUID EVAPROATION RETARDANT SOLUTION	:	PETITION

This is a decision in response to the petition under 37 CFR 1.137(b), filed February 23, 2004, to revive the above-identified application. The petition is properly treated as a petition under 37 CFR 1.137(a), to revive an unavoidably abandoned application[1].

This Petition is hereby **dismissed**.

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

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Corrected Application Papers (hereinafter "Notice"), mailed June 19, 2003. The Notice set a two (2) month period for reply. No response having been received, the application became abandoned on August 20, 2003. A Notice of Abandonment was mailed February 4, 2004.

Applicant files the instant petition wherein Applicant avers that he did not receive the Notice.

[1] The fee paid by Applicant for the instant petition was $55.00, which is the fee to revive an application abandoned unavoidably. The fee for reviving an application abandoned unintentionally is currently $665.00. The standards for granting the petitions is also different. *See* MPEP 711.03(c).

By hand: 2201 South Clark Place
Customer Window
Crystal Plaza Two, Lobby Room 1B03
Arlington, VA 22202

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

Derek L. Woods
Petitions Attorney
Office of Petitions

US 101428720DP1

Creation date: 09-16-2004
Indexing Officer: ENGUYEN2 - ERIC NGUYEN
Team: OIPEBackFileIndexing
Dossier: 10142872

Legal Date: 03-31-2004

No.	Doccode	Number of pages
1	LET.	2

Total number of pages: 2

Remarks:

Order of re-scan issued on .....

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 8

ROBERT N. O'BRIEN,
2614 QUEENSWOOD DRIVE
VICTORIA, BC V8N1X-5
CANADA

COPY MAILED

APR 13 2004

OFFICE OF PETITIONS

In re Application of	:	
Robert N. O'Brien	:	
Application No. 10/142,872	:	
Filed: May 13, 2002	:	
Title of Invention: PROCESS FOR MAKING	:	DECISION ON
A LIQUID EVAPROATION RETARDANT SOLUTION	:	PETITION

This is a decision in response to the correspondence filed April 6, 2004, which is being treated as a Request for Reconsideration of Petition under 37 CFR 1.137(a), to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Corrected Application Papers (hereinafter "Notice"), mailed June 19, 2003. The Notice required a substitute specification in compliance with 37 CFR 1.52, and set a two (2) month period for reply. No response having been received, the application became abandoned on August 20, 2003. A Notice of Abandonment was mailed February 4, 2004.

A petition to revive the application filed February 23, 2004, was dismissed by this Office in a Decision mailed on March 17, 2004, for failing to meet the requirements of a grantable petition under 37 CFR 1.137(a).

With the instant petition, Petitioner has provided the necessary statements and copies of the docket record where the non-received Notice would have been entered had it been received and docketed. Petitioner has demonstrated by a preponderance of the evidence that the Notice was not received.

The Notice of Abandonment is hereby withdrawn.

A a substitute specification was filed on February 23, 2004.

The file is being returned to the Office of Initial Patent Examination (OIPE) for continued processing in due course.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/31/05

TO SPE OF : ART UNIT 2835

SUBJECT : Request for Certificate of Correction on Patent No.: 6744629 B2

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

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

Virginia Tolbert

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

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

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

Comments:

References have not been listed on 1449

SPE — 2835 Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DIW 10-02

Paper No. 7

FLESHNER & KIM, LLP
P.O. BOX 221200
CHANTILLY VA 20153-1200

COPY MAILED

OCT 23 2002

OFFICE OF PETITIONS

In re Application of	:
Kim and Noh	:
Application No. 10/142,948	: DECISION REFUSING STATUS
Filed: 13 May, 2002	: UNDER 37 CFR 1.47(a)
Attorney Docket No. P-0352	:

This is in response to the petition under 37 CFR 1.47(a), filed on 30 August, 2002.

The petition is dismissed.

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

The above-identified application was filed on 13 May, 2002, without an executed oath or declaration. Accordingly, on 31 May, 2002, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application requiring the statutory basic filing fee, an executed oath or declaration, and a surcharge for its late filing.

In response, on 30 August, 2002, petitioners filed, *inter alia*, the instant petition under 37 CFR 1.47(a), and (a) the required petition fee and surcharge for late filing; (b) the basic filing fee; (c) a one (1) month extension of time, and (c) a declaration naming Woo-Sik Kim and Young-Chul Noh as joint inventors and signed by joint inventor Kim on behalf of himself and joint inventors Noh.

Petitioners assert that the non-signing joint inventor cannot be found or reached to sign the Declaration.

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

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
(3) the petition fee;
(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and
(5) a statement of the last known address of the non-signing inventor.

The petition lacks items (1).

In regards to item (1), above, petitioners have not provided sufficient proof that a copy of the application (specification, including claims, drawings, if any, and the declaration) was sent or given to each non-signing inventor for review.[1] Petitioners should provide a copy of the cover letter transmitting the application papers to the non-signing inventor or details in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

If the inventor refuses in writing to sign, a copy of that written refusal should be provided with any renewed petition. If the inventor refuses orally, petitioners should submit details of the refusal in an affidavit or declaration of facts by a person having first-hand knowledge of the refusal.

In the event that the application papers are returned as undeliverable, petitioners may show diligent efforts to locate the non-signing inventor by providing a copy of an envelope showing that a letter sent to the last known address of the non-signing inventor was returned as undeliverable by the post office. Details of the efforts made to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person having first-hand knowledge of the details. Additionally, if any inventor no longer lives at the last known

[1] MPEP 409.03(d).

address, petitioners may show diligent efforts by use of a national registry or other database to determine a current address for the non-signing inventor. If a more recent address is discovered, petitioners should send or give a copy of the application papers to the inventor at that address.

If repeated attempts to contact the non-signing inventor are unsuccessful, petitioners will have shown that despite diligent efforts, the inventor could not be reached.

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

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

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

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

Telephone inquiries concerning this matter may 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
WASHINGTON, D.C. 20231
www.uspto.gov
DW 01-03

Paper No. 9

FLESHNER & KIM, LLP
P.O. BOX 221200
CHANTILLY VA 20153-1200

COPY MAILED

JAN 03 2003

OFFICE OF PETITIONS

In re Application of	:
Kim and Noh	:
Application No. 10/142,948	: DECISION ACCORDING STATUS
Filed: 13 May, 2002	: UNDER 37 CFR 1.47(a)
Attorney Docket No. P-0352	:

This is in response to the renewed petition under 37 CFR 1.47(a), filed on 17 December, 2002.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Young-Chul Noh, 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 Sun-Ju Lim, that the non-signing inventor expressly requested, during a telephone call, that the application papers not be sent to him. The non-signing inventor also stated that he was refusing to sign the declaration.

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

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

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 2600 for examination in due course.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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DW 01-03

Young-Chul Noh
Jukong Apt. 256-501
Wonmoon-Dong, Kwacheon, Kyungki-do
KOREA

COPY MAILED

JAN 03 2003

OFFICE OF PETITIONS

In re Application of
Kim et al.
Application No. 10/142,948
Filed: 13 May, 2002
For: CDMA DIGITAL RECEIVER AND AUTOMATIC GAIN CONTROL METHOD THEREOF

Dear Mr. Noh:

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

FLESHNER & KIM, LLP
P.O. BOX 221200
CHANTILLY, VA 20153-1200

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

Thomas T. Moga
Dickinson Wright PLLC
1901 L Street NW, Suite 800
Washington, DC 20036

APR 29 2005

In re Application of:
Kuang-Neng Yang
Serial No.: 10/142,954
Filed: May 13, 2002
Attorney Docket No.: **147268.00365**

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed February 02, 2004, to revive the application under 37 C.F.R. § 1.137(a). The petition has been treated as a petition to withdraw the holding of abandonment in the above-identified application under 37 C.F.R. § 1.181. No fee is required.

The petition is **GRANTED.**

The application was held abandoned for failure to timely file a response to the Restriction Requirement mailed on March 18, 2003. A Notice of Abandonment was mailed on February 11, 2004.

Petitioner asserts that the Restriction Requirement mailed on March 18, 2003, was not received. To support this assertion, petitioner provided a statement attesting that a search of the file jacket and docket records showed that the Office action was not received. A copy of the file docket where the Office action would have been entered was also included with the petition.

A review of the written record indicates no irregularity in the mailing of the Office action, and in the absence of any irregularity there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the Office action was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c).

The petition, and the attachment, is sufficient to establish a showing of non-receipt of the Restriction Requirement mailed on March 18, 2003.

For the above stated reason, the petition is granted. Accordingly, there was no Abandonment in fact. The application is restored to pending status.

The response to the Restriction Requirement filed with the petition is accepted and will be entered into the file. Then, the file will be forwarded to the examiner for further examination.

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

Sharon A. Gibson, Director James L. Dwyer
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
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MAY 2 3 2008

OFFICE OF PETITIONS

JOE MCKINNEY MUNCY
P.O. BOX 1364
FAIRFAX, VA 22038-1364

In re Patent No. 7,129,527 :
Issue Date: October 31, 2006 :
Application No. 10/142,954 : ON PETITION
Filed: May 13, 2002 :
Attorney Docket No. 147268.00365 :

This is a decision on the petition filed January 16, 2008, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct the assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

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

This application is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Joe McKinney Muncy
Birch, Stewart, Kolasch & Birch, LLP
8110 Gatehouse Road, Suite 100 East
P.O. Box 747
Falls Church, VA 22040-0747

---

[1] See Official Gazette of June 22, 2004

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
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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)
6995745	2006-02-07	10142996	2002-05-13	219265USMF

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	/Bradley D. Lytle/	Date (YYYY-MM-DD)	2010-03-18
Name	Bradley D. Lytle	Registration Number	24913

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. 6995745
Issue Date: February 7,2006
Application No. 10142996
Filed: May 13,2002
Attorney Docket No. 219265US8

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

This is a decision on the electronic petition, filed March 18,2010 ,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 March 18,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AUG 4 2006

HELLER EHRMAN LLP
275 MIDDLEFIELD ROAD
MENLO PARK, CA 94025

In re Application of Kevin P. Baker et al Serial No.: 10/143,027 Filed: May 9, 2002 Attorney Docket No.: 39780-3330R1C225	: DECISION ON PETITION

This letter is in response to the Petition under 37 C.F.R. 1.181, filed May 22, 2006 requesting that the Notice of Non-Compliant Appeal Brief be withdrawn.

BACKGROUND

On October 22, 2004, the examiner mailed a non-Final Office action to applicants, setting a three month shortened statutory period for reply. In the Office action claims 72 and 77 were rejected under 35 U.S.C. 112, second paragraph, as indefinite. Claims 72-77 were further rejected under 35 U.S.C. 101 as lacking a substantial credible utility and lack of enablement and under 35 U.S.C. 112, first paragraph, for the same reasons.

Applicants filed a reply on January 24, 2005, amending claim 72 and canceling claim 77, and replying to the rejections by relying on arguments involving the concept of "universal control" and including an affidavits by Dr. Smith and Dr. Polakis also utilizing "universal control".

The examiner mailed a Final Office action to applicants on June 14, 2005, maintaining the rejections under 35 U.S.C. 101 and 112, first paragraph for lack of utility and for lack of written description and adding a further rejection for enablement. The examiner did consider the Smith affidavit and the examiner did comment and respond to arguments regarding "universal normal control" on pages 2-4 of the action.

Applicants filed an argument after final rejection on August 9, 2005, and this argument does contain an argument regarding "universal control" relating to the Smith affidavit on pages 3, 6, 12 and 13. In an Advisory Action mailed September 13, 2005, the examiner indicated consideration of applicants' arguments and in an attachment responded to some of applicants' arguments and specifically indicated consideration of the affidavits.

Applicants filed a Notice of Appeal on November 10, 2005, and a proper Appeal Brief on March 9, 2006. The Appeal Brief presents arguments with respect to "universal normal control" on pages 11-13 of the Brief.

The examiner mailed Notice of Non-Compliant Appeal Brief to applicants on April 4, 2006, based on applicants' use of the Smith declaration which is directed to another application.

Applicants filed this petition on May 22, 2006, asking that the Notice be withdrawn.

On June 28, 2006, applicants filed RCE papers.

DISCUSSION

Applicants argue that the examiner has held that the Appeal Brief is defective because an affidavit is relied on that is of record in this application filed, but is actually directed to a different application file. The examiner indicates that the affidavit was considered prior to issuance of the Final Office action.

Applicants state that the declaration, although initially provided in a related application, is directed to the same issue in this application that was under consideration in the related application and is therefore pertinent. Applicants also point out that the examiner has considered the affidavit and because of that consideration are entitled to rely on it in their Brief since it was timely submitted and considered.

Applicants' arguments are proper and persuasive that applicants have complied with the Rules of Practice and that the affidavit accompanying the Appeal Brief which was earlier considered does not render the Brief Non-Compliant.

DECISION

For the above reasons, the petition under 37 C.F.R. 1.181 requesting that the Notice of Non-Compliant Appeal Brief be withdrawn is **GRANTED**.

This application will be forwarded to the examiner for consideration of the amendment filed with the RCE papers on June 28, 2006.

There is no fee for this petition and the petition fee paid of $130.00 will be credited to applicants' Deposit Account No. 08-1641, as directed.

Should there by any questions regarding this decision, please contact Special Program Examiner, 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.

John L. LeGuyader
Director, Technology Center 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11-2-06

TO SPE OF : ART UNIT 1647

SUBJECT : Request for Certificate of Correction on Patent No.: 7105640

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

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

Valerie Jackson

Thank You For Your Assistance

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

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

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

Comments:

(1). The correction to (60) is approved.
(2). The corrections to (63) are denied for the following reasons:
(a). The filing dates of PCT/US 99/28313 and 09/380,138 are missing. (b). 09/380,138 should be filed as the National Stage of PCT/US 99/05028.

Christina Chan — SPE
1649 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

SEP 14 2007

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HELLER EHRMAN LLP
275 MIDDLEFIELD ROAD
MENLO PARK CA 94025-3506

In re Patent No. 7,105,640 DESNOYERS et al Issue Date: September 12, 2006 Appl No.: 10/143,029 Filed: October 19, 2001 For: Correction of Inventorship	**DECISION GRANTING PETITION** *37 CFR 1.324*

This is a decision on the petition filed September 5, 2007, 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.

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

DATE: September 13, 2007
TO: Certificates of Correction Branch
FROM: William R. Dixon, Jr.
Technology Center 1600
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 7,105,640 as specified on the attached Certificate.

William R. Dixon, Jr.
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 7,105,640
Patented: September 12, 2006

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

Luc Desnoyers
Audrey Goddard
Paul J. Godowski
Austin Gurney
William I. Wood
Ellen Filvaroff

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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OIPE IAP52
SEP 20 2007
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HELLER EHRMAN LLP
275 MIDDLEFIELD ROAD
MENLO PARK CA 94025-3506

In re Patent No. 7,105,640 DESNOYERS et al
Issue Date: September 12, 2006
Appl No.: 10/143,029
Filed: October 19, 2001
For: Correction of Inventorship

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition filed September 5, 2007, 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.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/14/08

TO SPE OF : ART UNIT 1649

SUBJECT : Request for Certificate of Correction on Patent No.: 7105640

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

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

Valerie Jackson

Thank You For Your Assistance

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

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

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

Comments:

SPE

1649
Art Unit

SPE: B. Brunback

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/13/07

TO SPE OF : ART UNIT 1647

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/143,031 Patent No.: 7166700

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

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

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

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

Thank You For Your Assistance

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

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

Comments: _____

SPE

1647 (achus)
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN 20 2006

HELLER EHRMAN LLP
275 MIDDLEFIELD ROAD
MENLO PARK, CA 94025

In re Application of	:
Kevin P. Baker et al	:
Serial No.: 10/143,035	: DECISION ON PETITION
Filed: May 9, 2002	:
Attorney Docket No.: 39780-3330R1C219	:

This letter is in response to the Petition under 37 C.F.R. 1.181, filed May 16, 2006 requesting that the Notice of Non-Compliant Appeal Brief be withdrawn.

BACKGROUND

On October 1, 2004, the examiner mailed a non-Final Office action to applicants, setting a three month shortened statutory period for reply. In the Office action claims 76-84 were rejected under 35 U.S.C. 112, second paragraph, as indefinite. Claims 76-84 were further rejected under 35 U.S.C. 101 as lacking a substantial credible utility and lack of enablement and under 35 U.S.C. 112, first paragraph, for the same reasons. Claims 76-84 were also rejected under 35 U.S.C. 112, first paragraph for lack of written description. Claims 76-78 were rejected under 35 U.S.C. 102(a) as anticipated by Young et al and claims 83-84 were rejected under 35 U.S.C. 103(a) as unpatentable over Young et al in view of Brent et al..

Applicants filed a reply on December 20, 2005, amending claims 76-79 and canceling claim 80-81, and replying to the rejections by relying on arguments involving the concept of "universal control" and including an affidavits by Dr. Smith and Dr. Polakis also utilizing "universal control".

The examiner mailed a Final Office action to applicants on May 23, 2005, maintaining the rejections under 35 U.S.C. 101 and 112, first paragraph for lack of utility and for lack of written

description The examiner did consider the Smith affidavit and the examiner did comment and respond to arguments regarding "universal normal control" on pages 2-4 of the action.

Applicants filed an argument after final rejection on August 8, 2005, and this argument does contain an argument regarding "universal control" relating to the Smith affidavit on pages 3, 6, 12 and 13. In an Advisory Action mailed September 13, 2005, the examiner indicated consideration of applicants' arguments and in an attachment responded to some of applicants' arguments and specifically indicated consideration of the affidavits..

Applicants filed a Notice of Appeal on November 10, 2005, and a proper Appeal Brief on March 9, 2006. The Appeal Brief presents arguments with respect to "universal normal control" on pages 11-13 of the Brief.

The examiner mailed Notice of Non-Compliant Appeal Brief to applicants on April 4, 2006, based on applicants' use of the Smith declaration which is directed to another application.

Applicants filed this petition on May 16, 2006, asking that the Notice be withdrawn.

DISCUSSION

Applicants argue that the examiner has held that the Appeal Brief is defective because an affidavit is relied on that is of record in this application filed, but is actually directed to a different application file. The examiner indicates that the affidavit was considered prior to issuance of the Final Office action.

Applicants state that the declaration, although initially provided in a related application, is directed to the same issue in this application that was under consideration in the related application and is therefore pertinent. Applicants also point out that the examiner has considered the affidavit and because of that consideration are entitled to rely on it in their Brief since it was timely submitted and considered.

Applicants' arguments are proper and persuasive that applicants have complied with the Rules of Practice and that the affidavit accompanying the Appeal Brief which was earlier considered does not render the Brief Non-Compliant.

DECISION

For the above reasons, the petition under 37 C.F.R. 1.181 requesting that the Notice of Non-Compliant Appeal Brief be withdrawn is **GRANTED**.

This application will be forwarded to the examiner for consideration of the Appeal Brief filed February 21, 2006, and preparation of the Examiner's Answer or other appropriate action.

There is no fee for this petition and the petition fee paid of $130.00 will be credited to applicants' Deposit Account No. 08-1641, as directed.

Should there by any questions regarding this decision, please contact Special Program Examiner, 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.

John L. LeGuyader
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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In re Patent No. 6692387
Issue Date: February 17,2004
Application No. 10143045
Filed: May 7,2002
Attorney Docket No. 01-1782-01

:

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

:

This is a decision on the electronic petition, filed February 25,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 25,2008 . 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.

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)
6692387	2004-02-17	10143045	2002-05-07	

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

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

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

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

A Joint Patentee and I certify that I am authorized to sign this submission on behalf of all the other patentees			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/Randall Scott Berens/	Date (YYYY-MM-DD)	2008-02-25
Name	Randall Scott Berens		

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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THE LAW OFFICE OF JOHN A. GRIECCI
703 PIER AVENUE, SUITE B #657
HERMOSA BEACH, CA 90254

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DEC 0 1 2004

OFFICE OF PETITIONS

In re Application of :
Shuichiro Yoshida :
Application No. 10/143,047 :
Filed: May 10, 2002 :
Attorney Docket No. SHO 1011-01US

ON PETITION

This is a decision on the petition, filed November 29, 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 27, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter will be forwarded to Technology Center AU 3714 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

---

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

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1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD MI 48075-1238

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APR 2 5 2005

OFFICE OF PETITIONS

In re Application of :
Michael J. Hier et al :
Application No. 10/143,062 :
Filed: May 10, 2002 :
Attorney Docket No. LEAR 0955 PUS :

ON PETITION

This is a decision on the petition, filed April 13, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on February 28, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3643 will consider the request for continued examination under 37 CFR 1.114 submitted April 18, 2005.

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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OFFICE OF PETITIONS

HARNESS, DICKEY & PIERCE
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

In re Application of :
Yoshiki Nishitani et al :
Application No. 10/143,086 : ON PETITION
Filed: May 9, 2002 :
Attorney Docket No. 2552-000017 :

This is a decision on the petition, filed August 4, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on June 30, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

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ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. _____

Date : August 14, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Yoshiki Nishitani et al
Application No. :10/143,086
Filed :May 9, 2002

The above-identified application has been assigned Patent No. 7,094,963 and an issue date of August 22, 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 August 22, 2006:

"All reference to Patent No. 7,094,963 to Yoshiki Nishitani et al of Japan for AUDIO SIGNAL GENERATING APPARATUS, AUDIO SIGNAL GENERATING SYSTEM, AUDIO SYSTEM, AUDIO SIGNAL GENERATING METHOD, PROGRAM, AND STORAGE MEDIUM appearing in the Official Gazette of August 22, 2006 should be deleted since no patent was granted."

Karen Creasy

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

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89

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IP GROUP OF DLA PIPER RUDNICK GRAY CARY US LLP
1650 MARKET ST
SUITE 4900
PHILADELPHIA PA 19103

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AUG 2 5 2005

OFFICE OF PETITIONS

In re Application of :
CARUSO et al. :
Application No. 10/143,111 :
Filed: November 8, 1999 :
Attorney Docket No. 1122-R-01 :

DECISION
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 22, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed November 8, 2004, which set a shortened statutory period for reply of three (3) months. A three-month extension of time under the provisions of 37 CFR 1.136(a) was filed on July 22, 2005. Accordingly, the application became abandoned on February 9, 2005.[1]

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), an Amendment, and the requisite fee of $790; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final office action of November 8, 2004 is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1020 extension of time fee submitted with the petition on July 22, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

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

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions

[1] Request for extension of time was filed outside of the statutory period for reply of six months. The period for reply to the final rejection thus expired three-months from the mailing date of the final rejection.

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CARL B. MASSEY, JR.
WOMBLE CARLYLE SANDRIDGE & RICE, PLLC
POST OFFICE BOX 7037
ATLANTA, GEORGIA 30357-0378

In re Application of	:
Zimmerman et al.	:
Serial No.: 10/143,112	: DECISION ON PETITION
Filed: 10 May 2002	:
Attorney Docket No.: B185 1013.1	:

This letter is in response to the Petition under 37 C.F.R. 1.181, filed 20 December 2005 requesting that the non-final Office action mailed to appellants 08 November 2005, be vacated and that an appropriate Examiner's Answer under 37 C.F.R. 41.39 or a Notice of Allowance be prepared.

BACKGROUND

A review of the file history reveals that a Final Office action on claims 1-39 was mailed to applicants on 8 September 2004. Applicants replied by a Notice of Appeal and an amendment on 6 December 2004. The amendment added claims 40-43 and was refused entry by Advisory Action mailed 21 December 2004. Applicants then filed RCE papers on 7 January 2005 requesting that the last amendment be entered and considered.

The examiner then mailed Final Office action to applicants on 25 February 2005 and then replaced that action by mailing a non-final Office action to applicants on 05 April 2005, rejecting claims 1 – 39 (and omitting claims 40-43). Applicants then filed a Notice of Appeal on 06 May 2005. Applicants then filed an Appeal Brief on 16 August 2005. Finally, the examiner mailed to applicants a supplemental non-final Office action on 08 November 2005 in which the only substantive change from the previous Office action mailed 05 April 2005 was the inclusion of claims 40 - 43 in all of the outstanding rejections in order to treat all of the pending claims on the merits.

In view of the fact that applicants filed a proper Appeal Brief on 06 May 2005 in response to the Office action mailed 5 April 2005, the appropriate action from the examiner would have been (1) preparation of an Examiner's Answer or (2) allowance of the application. In the Appeal Brief applicants clearly indicated that they were treating claims 40 - 43 as having been rejected along with claims 1 - 39 in all of the outstanding

rejections. This mooted any need for the supplemental Office action of 08 November 2005.

DECISION

Applicants' Petition under 37 C.F.R. 1.181 requesting that the Office action mailed 08 November 2005 be vacated and in its place an Examiner's Answer or other appropriate action in response to the Appeal Brief be taken is **GRANTED**.

The application is being returned to the examiner for further action not inconsistent with this decision.

Should there by any questions regarding this decision, please contact Special Program Examiner, 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

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AUG 4 2006

HELLER EHRMAN LLP
275 MIDDLEFIELD ROAD
MENLO PARK, CA 94025

In re Application of	:
Kevin P. Baker et al	:
Serial No.: 10/143,113	: DECISION ON PETITION
Filed: May 9, 2002	:
Attorney Docket No.: 39780-3330R1C217	:

This letter is in response to the Petition under 37 C.F.R. 1.181, filed May 22, 2006 requesting that the Notice of Non-Compliant Appeal Brief be withdrawn.

BACKGROUND

On October 1, 2004, the examiner mailed a non-Final Office action to applicants, setting a three month shortened statutory period for reply. In the Office action claims 72-84 were rejected under 35 U.S.C. 112, second paragraph, as indefinite. Claims 72-84 were further rejected under 35 U.S.C. 101 as lacking a substantial credible utility and lack of enablement and under 35 U.S.C. 112, first paragraph, for the same reasons. Claims 72-78 and 80 were rejected under 35 U.S.C. 102(b) as anticipated by protein FLJ13631. Claims 83 and 84 were rejected under 35 U.S.C. 103(a) as unpatentable over the same protein.

Applicants filed a reply on December 29, 2004, amending claims 72-79 and 83and canceling claims 80-81, and replying to the rejections by relying on arguments involving the concept of "universal control" and including an affidavits by Dr. Smith and Dr. Polakis also utilizing "universal control".

The examiner mailed a Final Office action to applicants on May 31, 2005, maintaining the rejections under 35 U.S.C. 101 and 112, first paragraph for lack of utility and for lack of written description. The examiner did consider the Smith affidavit and the examiner did comment and respond to arguments regarding "universal normal control" on pages 2-4 of the action.

Applicants filed an argument after final rejection on July 28, 2005, and this argument does contain an argument regarding "universal control" relating to the Smith affidavit on pages 3, 6, 12 and 13. In an Advisory Action mailed September 13, 2005, the examiner indicated consideration of applicants' arguments and in an attachment responded to some of applicants' arguments and specifically indicated consideration of the affidavits.

Applicants filed a Notice of Appeal on October 24, 2005, and a proper Appeal Brief on February 22, 2006. The Appeal Brief presents arguments with respect to "universal normal control" on pages 11-13 of the Brief.

The examiner mailed Notice of Non-Compliant Appeal Brief to applicants on April 4, 2006, based on applicants' use of the Smith declaration which is directed to another application.

Applicants filed this petition on May 22, 2006, asking that the Notice be withdrawn.

On June 28, 2006, applicants filed RCE papers.

DISCUSSION

Applicants argue that the examiner has held that the Appeal Brief is defective because an affidavit is relied on that is of record in this application filed, but is actually directed to a different application file. The examiner indicates that the affidavit was considered prior to issuance of the Final Office action.

Applicants state that the declaration, although initially provided in a related application, is directed to the same issue in this application that was under consideration in the related application and is therefore pertinent. Applicants also point out that the examiner has considered the affidavit and because of that consideration are entitled to rely on it in their Brief since it was timely submitted and considered.

Applicants' arguments are proper and persuasive that applicants have complied with the Rules of Practice and that the affidavit accompanying the Appeal Brief which was earlier considered does not render the Brief Non-Compliant.

DECISION

For the above reasons, the petition under 37 C.F.R. 1.181 requesting that the Notice of Non-Compliant Appeal Brief be withdrawn is **GRANTED**.

This application will be forwarded to the examiner for consideration of the amendment filed with the RCE papers on June 28, 2006.

There is no fee for this petition and the petition fee paid of $130.00 will be credited to applicants' Deposit Account No. 08-1641, as directed.

Should there by any questions regarding this decision, please contact Special Program Examiner, 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.

John L. LeGuyader
Director, Technology Center 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/25/08

TO SPE OF : ART UNIT 1646

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/143118 Patent No.: 7309 768

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

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

Should C of C be approved

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

Certificates of Correction Branch

703-308-9390 ext. 117

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE

1646

Art Unit

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JJGJR.: 03-05

Paper No: __

PHILIP H HAYMOND ESQ
7545 IRVINE CENTER DRIVE
SUITE 200
IRVINE CA 92618-2933

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AUG 1 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Rothschild	:	
Application No. 10/143,124	:	DECISION
Filing Date: 10 May, 2002	:	
Attorney Docket No. 5125.301	:	

This is a decision on the petition filed on 14 February, 2005, alleging unintentional delay under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition as considered under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the final Office action mailed on 12 August, 2003, with reply due absent extension of time on or before 12 November, 2003;
- on 12 November, 2003, Petitioner filed a reply which the Examiner found was not a

proper reply (in that it did not place the application in condition for allowance[1]), and on 16 December, 2003, the Examiner mailed an Advisory Action;

- the application went abandoned after midnight 12 November, 2003;
- the Office mailed the Notice of Abandonment on 24 March, 2004;
- the instant petition was filed on 14 February, 2005, and was accompanied by a request for continued examination (RCE) with fee and submission under 37 C.F.R. §1.114, and Petitioner alleges unintentional delay and makes the required statement in support thereof.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5]

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[1] A proper reply is a an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or a CPA or RCE (with fee and submission). (See: MPEP §711.03(c).)

[2] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[4] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

Petitioner has satisfied the petition, fee, reply and statement/showing requirements of the regulation.

CONCLUSION

The instant petition under 37 C.F.R. §1.137(b) hereby is **granted**.

The instant application is forwarded to Technology Center 3700 for further processing in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

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

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[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[7] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

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BIOTECHNOLOGY LAW GROUP
C/O PORTFOLIOIP
P.O. BOX 52050
MINNEAPOLIS, MN 55402

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JUN 17 2005

OFFICE OF PETITIONS

In re Application of
Alan M. Schechter
Application No. 10/143,128
Filed: May 10, 2002
Attorney Docket No. 3781-0124P

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed April 26, 2005.

The petition is GRANTED.

The application became abandoned for failure to pay the issue fee on or before October 8, 2004. A Notice of Abandonment was mailed February 2, 2005. Receipt is acknowledged of the requisite issue/publication fee on April 26, 2005.

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.

The application is being referred 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: Daniel M. Chambers
658 Marsolan Avenue
Solana Beach, CA 92075

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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AUG 23 2002

Office of the Director
Group 3600

Drinker Biddle & Reath
One Logan Square
18th and Cherry Streets
Philadelphia, PA 19103-6996

In re Application of
Robert Weedling, et.al.
SERIAL NO: 10/143,139
FILED: May 10, 2002
FOR: PATIENT TRANSFER DEVICE HAVING INFLATABLE AIR MATTRESS

DECISION ON PETITION TO MAKE APPLICATION SPECIAL (AGE)

This is a decision on your petition submitted on May 10, 2002, to make the above-referenced application special on the basis that applicant is over 65 years of age.

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

The Examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to 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.

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

Randolph Reese

Randolph Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121
Jb:8/21/02

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SCHNADER HARRISON SEGAL & LEWIS, LLP
1600 MARKET STREET, SUITE 3600
PHILADELPHIA PA 19103

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In re Application of	:	
KAO, et al.	:	
Application No. 10/143,140	:	DECISION ON PETITION
Filed: May, 10, 2002	:	TO WITHDRAW
Attorney Docket No. 1167-R-01	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 20, 2006 and re-submitted on June 27, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Joan T. Kluger on behalf of all attorneys of record who are associated with customer No. 22469. All attorneys/agents associated with the Customer Number 22469 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 June 16, 2006 that requires a reply from the applicant.

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

David Bucci
Petitions Examiner
Office of Petitions

cc: **Huai-Hung Kao**
137 Colony Lane
Syosset, NY 11791

cc: **Guy Donatiello, Esq**
Endo Pharmaceuticals, Inc.
223 Wilmington West Chester Pike
Chadds Ford, PA 19317

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
10/143,140	05/10/2002	Huai-Hung Kao	1167-R-01

CONFIRMATION NO. 1842

OC000000020756980

22469
SCHNADER HARRISON SEGAL & LEWIS, LLP
1600 MARKET STREET
SUITE 3600
PHILADELPHIA, PA 19103

Date Mailed: 10/10/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/20/2006.

- 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

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

MAR 24 2006

WOMBLE CARLYLE SANDRIDGE & RICE, PLLC
P. O. BOX 7037
ATLANTA, GA 30357-0378

In re Application of	:
Christopher A. Dadd et al	:
Serial No.: 10/143,156	: DECISION ON PETITION
Filed: May 10, 2002	:
Attorney Docket No.: B185T1011.1	:

This letter is in response to the Petition under 37 C.F.R. 1.181 requesting withdrawal of the Office action mailed to applicants on January 12, 2006.

On August 16, 2005, filed an Appeal Brief in proper format and with the appropriate fees, the application having been Finally rejected on April 5, 2005, and a Notice of Appeal having been timely filed.

On January 12, 2006, the examiner mailed to applicants a non-Final Office action referring to a Request for Continued Examination under 37 CFR 1.114. However the record shows no filing of RCE papers subsequent to the filing of the Appeal Brief. Further, the Office action appears to be significantly similar to the Office action of April 5, 2005, with little further material added to it, which Office action is the subject of the Notice of Appeal and Appeal Brief.

Upon receipt of the Office action applicants filed this petition requesting the Office action be withdrawn as improper. Applicants' request is proper since the examiner gave no reasons for mailing a non-Final Office action to applicants except for the invoking of 37 CFR 1.114 which was in error.

The petition is **GRANTED.** The Office action of January 12, 2006 is withdrawn.

The application will be returned to the examiner for prompt preparation of an Examiner's Answer or other appropriate action.

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

Bruce M. Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAY 20 2003

UR
PAPER NO. 6

In re Application of Wayne C. Tucker et al. Serial Number: 10/143,173 Filed: May 07, 2002 For: CHROMATE METAL SURFACE ETCHING SOLUTIONS	: : : : : : :	PETITION UNDER M.P.E.P.708.02,V

This is in response to the petition filed, March 04, 2003 requesting that the above-identified application be granted Special Status under section 708.02 (V) 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.

Accordingly the petition is **GRANTED.**

JMStone

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

Office of Counsel, Bldg 112T
Naval Undersea Warfare Division
1176 Howell Street
Newport, RI 02841-1708

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES, CA 90025-1030

COPY MAILED

APR 0 4 2007

OFFICE OF PETITIONS

In re Application of	:	
Ravi Kashyap	:	
Application No. 10/143,191	:	ON PETITION
Filed: May 9, 2002	:	
Attorney Docket No. 5858P7410	:	

This is a decision on the petition, filed October 31, 2006, which is being treated as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to timely pay the issue and publication fees on or before September 8, 2006, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed June 8, 2006. A Notice of Abandonment was mailed on October 9, 2006.

Petitioner asserts that the Notice dated June 8, 2006 was not received. Petitioner states that a search of the file jacket and docket records indicates that the Office action was not received. In support thereof applicants submitted the docket record for the above-identified application.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

(1) A statement from the practitioner stating the Office communication was not received by the practitioner;
(2) A statement attesting to the fact that a search of the file jack and docket records indicates that the Office communication was not received; and
(3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The evidence presented by applicant is insufficient to withdraw the holding of abandonment since the petition has failed to comply with requirement (3) above. It is noted that petitioner submitted docket records of where the non-received Office communication would have been entered had it been received. However, the docket record indicated above must also include a copy of the **list** of all responses in the practitioner's office with the due date of September 8, 2006. *See* MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

Accordingly, the request to withdraw the holding of abandonment is dismissed.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in 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 $1,500 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay 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
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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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AUG 28 2007

OFFICE OF PETITIONS

SUN MICROSYSTEMS, INC. c/o DORSEY & WHITNEY, LLP
370 SEVENTEENTH ST.
SUITE 4700
DENVER CO 80202

In re Application of
Ravi Kashyap
Application No. 10/143,191
Filed: May 9, 2002
Attorney Docket No. 188979/US

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed July 27, 2007.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fees on or before September 8, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed June 8, 2006. Accordingly, the date of abandonment of this application is September 9, 2006. A Notice of Abandonment was mailed on October 9, 2006. On July 27, 2007, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that the petitioner has supplied (1) reply in the form of payment of the issue fee of $1,400 and the publication fee of $300; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay[1].

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

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record at the time of abandonment, 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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DW 10-02

Paper No. 4

JOHN P. COSTELLO
WEINTRAUB GENSHLEA CHEDIAK SPROUL
400 CAPITOL MALL, 11TH FLOOR
SACRAMENTO CA 95814

COPY MAILED

OCT 2 2 2002

OFFICE OF PETITIONS

In re Application of	:
Orsbon and Hodge	:
Application No. 10/143,198	: DECISION REFUSING STATUS
Filed: 9 May, 2002	: UNDER 37 CFR 1.47(a)
Attorney Docket No. 6369/10362	:

This is in response to the petition filed under 37 CFR 1.47(a)[1] on 9 September, 2002.

The petition is **DISMISSED**.

The above-identified application was filed on 9 May, 2002, with a declaration naming Wyatt B. Orsbon and Rex A. Hodge as joint inventors. On 14 June, 2002, Initial Patent Examination Division mailed a Notice of Informal Application, requiring a new oath or declaration because the declaration did not identify the citizenship of each joint inventor. On 9 September, 2002, petitioners filed the present petition stating that there were actually three inventors and that the third inventor, Rolf R. Becker, had refused to sign the declaration. On 16 September, 2002, petitioners filed a declaration naming Orsbon, Hodge, and Becker as the inventive entity and signed by joint inventors Orsbon and Hodge.

---

[1] 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.

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

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
(3) the petition fee;
(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and
(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (3). Patent and trademark fees and charges payable to the Patent and Trademark Office are required to be paid in advance, that is, at the time of requesting any action by the Office for which a fee or charge is payable.[2] Although the petition states that the petition fee of $130.00 is enclosed, a review the items received with the present petition reveals that no check for $130.00 was enclosed. As such, the petition fee is a prerequisite to the filing of the present petition, and the Office will not reach the merits of the petition unless and until the petition fee is submitted. Any request for reconsideration of this petition must be accompanied by the petition fee.

37 CFR 1.41(a)(1) now defines the inventorship of a non-provisional application as that inventorship set forth in the oath or declaration filed to comply with the requirements of 37 CFR 1.63.[3] Since the declaration filed on 9 May, 2002, names the inventorship of this application as Orsbon and Hodge, a petition under 37 CFR 1.48 is required if petitioners desire to now add Becker 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 each person being deleted as an inventor that the error occurred without deceptive intention on his or her part;

---

[2] 37 CFR 1.22(a).

[3] MPEP 605.

(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.

In this regard, petitioners should request that Becker sign a statement of lack of deceptive intent. If an inventor's statement cannot be obtained, then upon a showing of (1) extraordinary circumstances, such that (2) justice requires, petitioners may seek waiver under 37 CFR 1.183 of that part of the regulation.[4] Petitioners must show that the inability to obtain the statement from Becker is, notwithstanding the exercise of reasonable care and diligence, due to circumstances beyond petitioners' control.[5] If Becker refuses to sign the statement of lack of deceptive intent, petitioners should provide proof that the statement of lack of deceptive intent was sent or given to him by providing a copy of the cover letter transmitting the statement of lack of deceptive intent to Becker or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

If Becker refuses in writing to sign the statement of lack of deceptive intent, a copy of the written refusal should be submitted with any renewed petition. If the refusal was made orally to a person, that person must provide details of the refusal in an affidavit or declaration of facts.

If the statement of lack of deceptive intent is returned as undeliverable, petitioners may provide proof that diligent efforts have been made to locate Becker by providing a copy of an envelope showing that a letter sent to the last known address of Becker was returned as undeliverable by the post office. Details of the efforts made to locate Becker should be set forth in an affidavit or declaration of facts by a person having first hand knowledge of the details.

---

[4] See MPEP 201.03(B).

[5] Although there is no requirement for a showing under 37 CFR 1.47, it is nevertheless appropriate to apply the principles thereof for showing that an inventor is unavailable or cannot be found to the situation at hand. MPEP 409.03(d).

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

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

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

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

The application is being returned to Initial Patent Examination Division for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 703.308.6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 4

JOHN P. COSTELLO
WEINTRAUB GENSHLEA CHEDIAK SPROUL
400 CAPITOL MALL, 11TH FLOOR
SACRAMENTO CA 95814

COPY MAILED

JAN 0 9 2003

OFFICE OF PETITIONS

In re Application of	:
Orsbon and Hodge	:
Application No. 10/143,198	: DECISION REFUSING STATUS
Filed: 9 May, 2002	: UNDER 37 CFR 1.47(a)
Attorney Docket No. 6369/10362	:

This is in response to the renewed petition filed under 37 CFR 1.47(a)[1] on 31 October, 2002.

The petition is again **DISMISSED**.

The above-identified application was filed on 9 May, 2002, with a declaration naming Wyatt B. Orsbon and Rex A. Hodge as joint inventors. On 14 June, 2002, Initial Patent Examination Division mailed a Notice of Informal Application, requiring a new oath or declaration because the declaration did not identify the citizenship of each joint inventor. On 9 September, 2002, petitioners filed a petition stating that there were actually three inventors and that the putative third inventor, Rolf R. Becker, had refused to sign the declaration. On 16 September, 2002, petitioners filed a declaration naming Orsbon, Hodge, and Becker as the inventive entity and signed by joint inventors Orsbon and Hodge. The petition was dismissed on 22 October, 2002, because the petition fee had not been received.

---

[1]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.

On 31 October, 2002, authorization was provided to charge the petition fee to counsel's deposit account, No. 50-1176.

Petitioners' counsel states that he sent a copy of the application to the address of Rolph Becker, and that Mr. Becker left a voice mail for counsel stating that he was refusing to sign the declaration.

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

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
(3) the petition fee;
(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and
(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (2). The declaration naming Mr. Becker as an inventor is defective in that it does not name the correct inventive entity. As stated previously, 37 CFR 1.41(a)(1) now defines the inventorship of a non-provisional application as that inventorship set forth in the oath or declaration filed to comply with the requirements of 37 CFR 1.63.[2] Since the executed declaration filed on 9 May, 2002, names the inventorship of this application as Orsbon and Hodge, <u>a petition under 37 CFR 1.48, or under 37 CFR 1.183 requesting waiver of 37 CFR 1.48, is required if petitioners desire to now add Becker as a joint inventor</u>.

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) a petition including a statement from each person being added and each person being deleted as an inventor that the error occurred without deceptive intention on his or her part;

(2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR

[2] MPEP 605.

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.

In this regard, petitioners should request that Becker sign a statement of lack of deceptive intent. If an inventor's statement cannot be obtained, then upon a showing of (1) extraordinary circumstances, such that (2) justice requires, petitioners may seek waiver under 37 CFR 1.183 of that part of the regulation.[3] Petitioners must show that the inability to obtain the statement from Becker is, notwithstanding the exercise of reasonable care and diligence, due to circumstances beyond petitioners' control.[4] If Becker refuses to sign the statement of lack of deceptive intent, petitioners should provide proof that the statement of lack of deceptive intent was sent or given to him by providing a copy of the cover letter transmitting the statement of lack of deceptive intent to Becker or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

If Becker refuses in writing to sign the statement of lack of deceptive intent, a copy of the written refusal should be submitted with any renewed petition. If the refusal was made orally to a person, that person must provide details of the refusal in an affidavit or declaration of facts.

If the statement of lack of deceptive intent is returned as undeliverable, petitioners may provide proof that diligent efforts have been made to locate Becker by providing a copy of an envelope showing that a letter sent to the last known address of Becker was returned as undeliverable by the post office. Details of the efforts made to locate Becker should be set forth in an affidavit or declaration of facts by a person having first hand knowledge of the details.

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

---

[3] See MPEP 201.03(B).

[4] Although there is no requirement for a showing under 37 CFR 1.47, it is nevertheless appropriate to apply the principles thereof for showing that an inventor is unavailable or cannot be found to the situation at hand. MPEP 409.03(d).

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

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

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

Counsel's deposit account will be charged the petition fee of $130.00.

The application will be retained in the Office of Petitions for TWO (2) MONTHS to await receipt of a petition under 1.48 or 1.183. If no petition is received within TWO (2) MONTHS, the application will be forwarded to the Office of Initial Patent Examination for further processing with the inventorship as currently listed.

Telephone inquiries related to this decision should be directed to the undersigned at 703.308.6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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DW 01-03

Paper No. 7

JOHN P. COSTELLO
WEINTRAUB GENSHLEA CHEDIAK SPROUL
400 CAPITOL MALL, 11TH FLOOR
SACRAMENTO CA 95814

COPY MAILED

JAN 1 6 2003

OFFICE OF PETITIONS

In re Application of	:
Orsbon and Hodge	: CORRECTED
Application No. 10/143,198	: DECISION REFUSING STATUS
Filed: 9 May, 2002	: UNDER 37 CFR 1.47(a)
Attorney Docket No. 6369/10362	:

This is a corrected decision in response to the renewed petition filed under 37 CFR 1.47(a)[1] on 31 October, 2002.

The petition is again **DISMISSED**.

The above-identified application was filed on 9 May, 2002, with a declaration naming Wyatt B. Orsbon and Rex A. Hodge as joint inventors. On 14 June, 2002, Initial Patent Examination Division mailed a Notice of Informal Application, requiring a new oath or declaration because the declaration did not identify the citizenship of each joint inventor. On 9 September, 2002, petitioners filed a petition stating that there were actually three inventors and that the putative third inventor, Rolf R. Becker, had refused to sign the declaration. On 16 September, 2002, petitioners filed a declaration naming Orsbon, Hodge, and Becker as the inventive entity and signed by joint inventors Orsbon and Hodge. The petition was dismissed on 22 October, 2002, because the petition fee had not been received.

On 31 October, 2002, authorization was provided to charge the petition fee to counsel's deposit account, No. 50-1176.

---

[1]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.

Petitioners' counsel states that he sent a copy of the application to the address of Rolph Becker, and that Mr. Becker left a voice mail for counsel stating that he was refusing to sign the declaration.

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

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
(3) the petition fee;
(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and
(5) a statement of the last known address of the non-signing inventor.

The petition lacks items (2) and (3).

With regards to item (2), the declaration naming Mr. Becker as an inventor is defective in that it does not name the correct inventive entity. As stated previously, 37 CFR 1.41(a)(1) now defines the inventorship of a non-provisional application as that inventorship set forth in the oath or declaration filed to comply with the requirements of 37 CFR 1.63.[2] Since the executed declaration filed on 9 May, 2002, names the inventorship of this application as Orsbon and Hodge, <u>a petition under 37 CFR 1.48, or under 37 CFR 1.183 requesting waiver of 37 CFR 1.48, is required if petitioners desire to now add Becker as a joint inventor</u>.

With regards to item (3), upon further review it is noted that the attorney who signed the petition, John P. Costello, is not listed as an authorized user of Deposit Account No. 50-1176. The petition fee therefore cannot be charged to the deposit account as requested in the petition. <u>Any renewed petition must be accompanied by authorization, by an authorized individual, to charge petitioner's deposit account or other form of payment.</u> Patent and trademark fees and charges payable to the Patent and Trademark Office are required to be paid in advance, that is, at the time of requesting any action by the Office for which a fee

[2] MPEP 605.

or charge is payable.[3]

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) a petition including a statement from each person being added and each person being deleted as an inventor that the error occurred without deceptive intention on his or her part;

(2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47;

(3) the fee set forth in 37 CFR 1.17(I), and

(4) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

In this regard, petitioners should request that Becker sign a statement of lack of deceptive intent. If an inventor's statement cannot be obtained, then upon a showing of (1) extraordinary circumstances, such that (2) justice requires, petitioners may seek waiver under 37 CFR 1.183 of that part of the regulation.[4] Petitioners must show that the inability to obtain the statement from Becker is, notwithstanding the exercise of reasonable care and diligence, due to circumstances beyond petitioners' control.[5] If Becker refuses to sign the statement of lack of deceptive intent, petitioners should provide proof that the statement of lack of deceptive intent was sent or given to him by providing a copy of the cover letter transmitting the statement of lack of deceptive intent to Becker or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

If Becker refuses in writing to sign the statement of lack of deceptive intent, a copy of the written refusal should be submitted with any renewed petition. If the refusal was made orally to a person, that person must provide details of the refusal in an affidavit or declaration of facts.

---

[3] 37 CFR 1.22(a).

[4] See MPEP 201.03(B).

[5] Although there is no requirement for a showing under 37 CFR 1.47, it is nevertheless appropriate to apply the principles thereof for showing that an inventor is unavailable or cannot be found to the situation at hand. MPEP 409.03(d).

If the statement of lack of deceptive intent is returned as undeliverable, petitioners may provide proof that diligent efforts have been made to locate Becker by providing a copy of an envelope showing that a letter sent to the last known address of Becker was returned as undeliverable by the post office. Details of the efforts made to locate Becker should be set forth in an affidavit or declaration of facts by a person having first hand knowledge of the details.

Additionally, petitioners must provide the petition fee of $130.00 for consideration of a petition under 37 CFR 1.48 or 1.183.

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

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

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

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

The application will be retained in the Office of Petitions for TWO (2) MONTHS to await receipt of a petition under 1.48 or 1.183. If no petition is received within TWO (2) MONTHS, the application will be forwarded to the Office of Initial Patent Examination for further processing with the inventorship as currently listed.

Telephone inquiries related to this decision should be directed to the undersigned at 703.308.6918.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
OIPE 03-03

Paper No. 9

JOHN P. COSTELLO
WEINTRAUB GENSHLEA CHEDIAK SPROUL
400 CAPITOL MALL, 11TH FLOOR
SACRAMENTO CA 95814

COPY MAILED

MAR 2 8 2003

OFFICE OF PETITIONS

In re Application of	:	
Orsbon, Hodge, and Becker	:	
Application No. 10/143,198	:	DECISION ACCORDING STATUS
Filed: 9 May, 2002	:	
Attorney Docket No. 6369/10362	:	

This is a decision on the renewed petition filed on 7 March, 2003, under 37 CFR 1.48(a) and 1.183, which is being treated as (1) a petition under 37 CFR 1.48(a) to amend the inventive entity by the addition of Rolf A. Becker (Becker), (2) a petition under 37 CFR 1.183, requesting waiver of 37 CFR 1.48(a)(2) which requires a statement from a person being added, and (4) as authorized by 37 CFR 1.48(a)(3), a petition under 37 CFR 1.47(a) to accept a declaration lacking the signature of Becker.

The petition is **GRANTED**.

Petitioners have shown that a copy of the application papers, including a declaration naming Becker as an inventor along with joint inventors Wyatt B. Orsbon and Rex A. Hodge were sent to the nonsigning inventor, but the inventor refused orally via voice mail to petitioner's registered patent attorney, John P. Costello, to sign the declaration. Additionally, a statement in accordance with 37 CFR 1.48 indicating that the error in inventorship occurred without deceptive intention on the part of Becker was hand delivered to non-signing joint inventor Becker's wife at his residence with a letter requesting that Becker sign and return the statement of lack of deceptive intent. Becker has failed, however, to return the statement of lack of deceptive intent.

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.

Additionally, as a result of papers filed on 9 September and 31 October, 2002, and 7 March, 2003, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and, accordingly, this application has been corrected in compliance with 37 CFR 1.48(a)(2). The inventorship of this application has been changed by the addition of Rolf R. Becker, Orangevale, California.

USPTO PALM data has been updated to reflect the inventorship as corrected. A corrected Filing Receipt is enclosed.

The application is being forwarded to Technology Center 1700 for examination in due course.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DIW 03-03

Rolph Becker
6509 Addington Circle
Orangevale, CA 95662

COPY MAILED

MAR 2 8 2003

OFFICE OF PETITIONS

In re Application of
Orsbon et al.
Application No. 10/143,198
Filed: 9 May, 2002
For: WATER-SOLUBLE ELECTRICALLY CONDUCTIVE COMPOSITION, MODIFICATIONS, AND APPLICATIONS THEREOF

Dear Mr. Becker:

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

JOHN P. COSTELLO
WEINTRAUB GENSHLEA CHEDIAK SPROUL
400 CAPITOL MALL, 11TH FLOOR
SACRAMENTO CA 95814

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

Fish & Neave
1251 Avenue of the Americas
New York, NY 10020-1105

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JAN 1 2 2004

OFFICE OF PETITIONS

In re Application of :
Glenn J. Leedy :
Application No. 10/143,200 :
Filed: May 13, 2002 :
Attorney Docket No. ELM2- Cont.3 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 23, 2003, to revive the above-identified application.

The petition is granted.

The above-identified application became abandoned for failure to timely pay the issue fee. 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. See MPEP 711.03(c)(III)(A)(1). Therefore, the filing of a continuing application is not a proper reply under 37 CFR 1.137(b). In view of the authorization contained in the petition to charge any additional fees due, the $665 issue fee will be charged to Deposit Account No. 06-1075.

Petitioner is advised that the issue fee paid on 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.

The application file is being forwarded to Technology Center AU 2822, for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JAMES A HARRISON
PO BOX 670007
DALLAS TX 75367

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JUN 21 2007

OFFICE OF PETITIONS

In re Application of	:	
Chowdhury, et al.	:	
Application No. 10/143,229	:	ON PETITION
Filed: May 10, 2002	:	
Attorney Docket No. 14852RRUS02U	:	

This is a decision on the petition to withdraw the holding of abandonment, filed May 29, 2007.

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file a reply in response to the Notice of Non-Compliant Amendment, mailed September 8, 2006. This Office action set a period for reply of thirty (30) days. No reply having been received, the application became abandoned on October 9, 2006. A Notice of Abandonment was mailed on April 6, 2007.

To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed.[1] A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."[2] "For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket record showing **all** replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted..."[3]

Here, the docket record submitted on petition is only a copy of the prosecution history for the instant application. As set forth above, to establish that the September 8, 2006 Notice of Non-Compliant Amendment was not received, petitioner would need to submit his docket records showing all of his replies docketed for the due date of October 8, 2006.

While the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m); and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

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

---

[1] See MPEP 711.03(c)(II).

[2] MPEP 711.03(c)(II) (emphasis added).

[3] Id.

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JAMES A HARRISON
PO BOX 670007
DALLAS TX 75367

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AUG 27 2007
OFFICE OF PETITIONS

In re Application of	:	
Chowdhury, et al.	:	
Application No. 10/143,229	:	ON PETITION
Filed: May 10, 2002	:	
Attorney Docket No. 14852RRUS02U	:	

This is a decision on the renewed petition to withdraw the holding of abandonment, filed August 15, 2007.

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

The holding of abandonment is **WITHDRAWN**.

The above-identified application became abandoned for failure to timely file a reply in response to the Notice of Non-Compliant Amendment, mailed September 8, 2006. This Office action set a period for reply of thirty (30) days. No reply having been received, the application became abandoned on October 9, 2006. A Notice of Abandonment was mailed on April 6, 2007.

Applicants filed a petition to withdraw the holding of abandonment on May 29, 2007. However, the petition was dismissed in a decision mailed on June 21, 2007. The decision pointed out that applicants did not submit a sufficient docket report evidencing non-receipt of the Notice of Non-Compliant Amendment.

To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed.[1] A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."[2] "For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket record showing **all** replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted..."[3]

Here, petitioner has submitted a sufficient docket report, supporting the conclusion that the Notice of Non-Compliant Amendment mailed September 8, 2006 was not received.

The matter is being forwarded to Group Art Unit 2616 for re-mailing of the September 8, 2006 Notice of Non-Compliant Amendment, setting a new period for reply.

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

Cliff Congo
Petitions Attorney
Office of Petitions

---

[1] See MPEP 711.03(c)(II).

[2] MPEP 711.03(c)(II) (emphasis added).

[3] Id.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROCKWELL COLLINS, INC.
ATTENTION: KYLE EPPELE
M/S 124-323
400 COLLINS RD. NE
CEDAR RAPIDS, IA 52498

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MAR 0 8 2006

OFFICE OF PETITIONS

In re Application of	:	
Alexander et al.	:	
Application No. 10/143,236	:	ON PETITION
Filed: May 10, 2002	:	
Attorney Docket No. 01CR096/KE	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 1, 2006, to revive the above-identified application.

The petition is **GRANTED.**

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

This matter is being referred to Technology Center 2100 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

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

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SEP 17 2002

OFFICE OF PETITIONS

MILLER PATENT SERVICES
2500 DOCKERY LANE
RALEIGH, NC 27606

In re Application of
Novelli et al.
Application No. 10/143,271
Filed: May 10, 2002
Attorney Docket Number:
SNY-S5002.01

DECISION ON PETITION

This is a decision on the petition filed August 21, 2002, requesting that the above-identified application be accorded a filing date of May 10, 2002, and amended to include a drawing containing Figure 9.

The petition is granted in part.

The application was filed on May 10, 2002. However, on June 17, 2002, the Office mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" stating that the application had been accorded a filing date of May 10, 2002, and advising applicants that the drawing of Figure 9 described in the specification appeared to have been omitted.

In response, On July 1, 2002, Petitioner filed a Preliminary Amendment, wherein Petitioner "accepts the application as deposited with the U.S. Patent Office on the filing date shown above."

Thereafter, on July 17, 2002, the Office mailed a Notice to File Missing Parts of Nonprovisional Application, indicating, *inter alia*, the filing receipt date as July 1, 2002.

The present petition was filed requesting the original filing date, and that the application be amended to include the drawing of Figure 9 described in the specification.

In view of the record above, the filing date of the application should be May 10, 2002.

The Amendment and addition of Figure 9

The mailing of a "Notice of Omitted Items" permits the applicant to either: (1) promptly establish prior receipt in the PTO of the drawing(s) at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing drawings were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted drawings in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted drawing(s) with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such drawing(s) and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the "Notice of Omitted Items" (37 CFR 1.181(f)).

In this case, petitioners neither assert that the missing drawing was deposited on May 10, 2002, nor request the July 1, 2002 (the date the drawing was supplied) filing date.

Instead, applicants seek to amend the application to include the drawings. However, no petition under 37 CFR 1.182 is necessary for that purpose. New drawings may be entered by the primary examiner without petition so long as the new drawings contain no new matter. See MPEP § 608.02(a).

Accordingly, the petition's request to accept and enter the preliminary amendment is inappropriate and is subject to dismissal.

It is noted that the application transmittal letter identified this application as a nonprovisional application claiming priority to provisional application No. 60/353,909 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)

Obviously, in view of the incorporation by reference of the prior application, the drawing of Figure 9 is not new matter if it was a part of the disclosure of the prior application.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of May 10, 2002, using the sheets of drawings filed on that date.

Thereafter, the application will be forwarded to the appropriate group art unit for consideration by the examiner of the amendment filed July 1, 2002, requesting, *inter alia*, the entry of Figure 9.

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

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

Conferee: Douglas I. Wood, Esq.

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)
6726724	2004-04-27	10143284	2002-05-10	0-02-157

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	/Kevin D. McCarthy/	Date (YYYY-MM-DD)	2008-06-12
Name	Kevin D. McCarthy	Registration Number	35278

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. 6726724
Issue Date: April 27,2004
Application No. 10143284
Filed: May 10,2002
Attorney Docket No. 34500.0000

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

This is a decision on the electronic petition, filed June 12,2008 ,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 June 12,2008 . 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

Rodney Corder
Corder Engineering
10449 Salinas River Circle
Fountain Valley, California 92708

In re Application of:
Rodney Joe Corder and James E Shea
Application No. **10/143288**
Filed: May 10, 2002
For: Apparatus and Method for Secure Data Storage

DECISION ON PETITION

This is a decision on the petition filed June 18, 2009 requesting to add an inventor under 37 CFR 1.324.

37 CFR 1.324 States:
(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).

In support of the petition, the Applicant provided the requirements of 37 CFR 1.324 a and b1-b4 stated above.

For the above-stated reasons, the petition is **Granted**.

Any inquiry concerning this decision should be directed to Tod Swann at (571) 272-3612.

Tod Swann
Technology Center 2400

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DATE: November 30, 2009
TO: Certificates of Correction Branch
FROM: Tod Swann
SPE, Art Unit 2400
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 7069447 as specified on the attached Certificate.

Tod Swann, SPE
Art Unit 2400

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 7069447
Patented: June 27, 2006

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

Rodney Joe Corder and James E. Shea

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 11

MARCUS DELGADO, SENIOR PATENT COUNSEL
BELLSOUTH INTELLECTUAL PROPERTY MANAGEMENT CORP.
1155 PEACHTREE STREET
SUITE 500
ATLANTA, GA 30309

COPY MAILED

JUL 1 4 2003

OFFICE OF PETITIONS

In re Application of
Ronald Perrella, Gaiye Zhou and Steven J. Thobe
Application No. 10/143,301
Filed: May 9, 2002
Title of Invention: METHODS AND SYSTEMS FOR CENTRALLY-CONTROLLED CLIENT-SIDE FILTERING

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to a Request for Reconsideration of Petition under 37 CFR 1.47(a), filed April 29, 2003, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **granted**.

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

Petitioner has shown that the non-signing inventor, Gaiye Zhou, cannot be found or reached after diligent effort.

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

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

The Revocation and Power of Attorney ("Revocation"), has not been entered. The Revocation is signed by the Vice President, Patent and Trademark Procurement, but does not indicate that the signor is associated with the assignee. A copy of the Revocation, signed by a representative of the assignee, should be filed.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

cc: Merchant & Gould
P.O. Box 2903
Minneapolis, MN 55402-0903
Attn: Christopher J. Leonard

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Gaiye Zhou
10945 Glenbarr Drive
Duluth, GA 30097

In re Application of
Ronald Perrella, Gaiye Zhou
and Steven J. Thobe
Application No. 10/143,301
Filed: May 9, 2002
Title of Invention: METHODS
AND SYSTEMS FOR
CENTRALLY-CONTROLLED
CLIENT-SIDE FILTERING

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OFFICE OF PETITIONS

LETTER

Dear Ms. Zhou:

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) 305-0014. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Petitions Attorney
Office of Petitions

cc: Merchant & Gould
P.O. Box 2903
Minneapolis, MN 55402-0903
Attn: Christopher J. Leonard

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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MAY 08 2007

OFFICE OF PETITIONS

In re Application of :
Steve Palmer, et al. :
Application No. 10/143,325 : ON PETITION
Filed: May 9, 2002 :
Attorney Docket No. MS1-1046US :

This is a decision on the petition, filed January 4, 2007, to revive the above-identified application under 37 CFR 1.137(b).

The petition is **granted**.

This application became abandoned as a result of petitioner's failure to file a complete and proper appeal brief within the time period provided in 37 CFR 41.37(a)(1). As a complete and proper appeal brief was not filed within one (1) month of the Notification of Non-Compliance with 37 CFR 41.37(c)(1), mailed August 11, 2006, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. *See* 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on September 12, 2006. *See* MPEP 1215.04.

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

The application is being referred to Technology Center AU 2179.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,173,035 Issued: February 6, 2007 Application No. 10/143,335 Filed: May 10, 2002 Atty. Dkt. No.: 13425-060001 / 00477/0047	DECISION ON APPLICATION FOR PTA and NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION

This decision is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT under 37 CFR 1.705(d))," filed April 4, 2007.

The request for reconsideration of patent term adjustment (PTA) is **GRANTED**.

The above-identified application matured into U.S. Patent No. 7,173,035 on February 6, 2007. The instant request for reconsideration was timely filed April 4, 2007 in accordance with 37 CFR 1.705(d). The patent issued with a PTA of 396 days. Patentees argue that the adjustment accorded the patent was improperly reduced 65 days in connection with the issue fee payment submitted December 4, 2006.

A review of the application history reveals that the adjustment of 637 days was improperly reduced 65 days, as argued by patentees, in connection with the "RESPONSE TO THE NOTICE OF ALLOWANCE," filed December 4, 2006. The Office has found that papers related to comments on the examiner's statement of reasons for allowance do not constitute failures to engage in reasonable efforts to conclude prosecution. *See*, MPEP 2732. *See, also*, 1247 Off. Gaz. Pat. Off. 111 (June 26, 2001).

In view thereof, at the time of issuance, the patent was entitled to an adjustment of 461 days, as argued by patentees.

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 461 days.

Receipt is hereby acknowledged of the required application fee of $200.00.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery A. Fries

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

CC: Draft Certificate of Correction

Day : Wednesday

PALM INTRANET

Date: 5/30/2007
Time: 13:43:11

PTA Calculations for Application: 10/143335			
Application Filing Date:	05/10/2002	PTO Delay (PTO):	637
Issue Date of Patent:	02/06/2007	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	241
Post-Issue Petitions:	0	Total PTA (days):	461
PTO Delay Adjustment:	65		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
56	05/30/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	65		
52.5	01/17/2007	PTA 36 MONTHS	253		
52	02/06/2007	PATENT ISSUE DATE USED IN PTA CALCULATION			
51	01/05/2007	EXPORT TO FINAL DATA CAPTURE			
50	01/04/2007	FINISHED INITIAL DATA CAPTURE			
49	01/04/2007	DISPATCH TO FDC			
48	12/07/2006	APPLICATION IS CONSIDERED READY FOR ISSUE			
47	12/04/2006	MISCELLANEOUS INCOMING LETTER		65	
46	12/04/2006	ISSUE FEE PAYMENT VERIFIED			
45	12/04/2006	ISSUE FEE PAYMENT RECEIVED			
44	09/18/2006	EXPORT TO INITIAL DATA CAPTURE			
43	09/14/2006	MAIL NOTICE OF ALLOWANCE			
42	09/11/2006	ISSUE REVISION COMPLETED			
41	09/11/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
40	09/11/2006	CASE DOCKETED TO EXAMINER IN GAU			
39	09/11/2006	NOTICE OF ALLOWABILITY			
38	09/09/2006	DATE FORWARDED TO EXAMINER			
37	09/01/2006	AMENDMENT AFTER FINAL REJECTION			
36	06/21/2006	MAIL FINAL REJECTION (PTOL - 326)			
35	06/19/2006	FINAL REJECTION			
34	08/22/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
33	04/13/2006	DATE FORWARDED TO EXAMINER			
32	04/07/2006	RESPONSE AFTER NON-FINAL ACTION		52	30

31	04/07/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
30	11/14/2005	MAIL NON-FINAL REJECTION			
29	11/08/2005	NON-FINAL REJECTION			
28	08/22/2005	REFERENCE CAPTURE ON IDS			
27	08/22/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	25
26	08/30/2005	DATE FORWARDED TO EXAMINER			
25	08/22/2005	RESPONSE AFTER NON-FINAL ACTION		89	23
24	08/22/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
23	02/25/2005	MAIL NON-FINAL REJECTION			
22	02/22/2005	NON-FINAL REJECTION			
21	12/09/2004	DATE FORWARDED TO EXAMINER			
20	12/02/2004	RESPONSE TO ELECTION / RESTRICTION FILED		35	17
19	12/02/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
18	12/02/2004	WORKFLOW INCOMING AMENDMENT IFW			
17	07/28/2004	MAIL RESTRICTION REQUIREMENT	384		-1
16	07/26/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
15	11/17/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
14	12/09/2002	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
13	11/04/2002	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
12	11/01/2002	CASE DOCKETED TO EXAMINER IN GAU			
11	10/09/2002	PRELIMINARY AMENDMENT			
10	10/07/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	09/16/2002	APPLICATION DISPATCHED FROM OIPE			
8	09/13/2002	APPLICATION IS NOW COMPLETE			
6	08/20/2002	ADDITIONAL APPLICATION FILING FEES			
5	08/20/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
4	06/14/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	05/17/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	05/16/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			

1	05/10/2002	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back use Back button on your browser toolbar.

Back to PALM | ASSIGNMENT | OASIS | Home page

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	7,173,035B2
DATED	:	February 6, 2007
INVENTOR(S)	:	Bremberg, 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 396 days

Delete the phrase "by 396 days" and insert – by 461 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/14/06

TO SPE OF : ART UNIT 2123

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/143347** Patent No.: **7079997**

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

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

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

Angela Green
Certificates of Correction Branch
703.308.9380 ext.

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: Correction to col 18, line 25 should be col 18, line 26

PAUL RODRIGUEZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

SPE

2123
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

STUART J. SINDER
KENYON & KENYON
ONE BROADWAY
NEW YORK, NY 1004

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DEC 03 2004

OFFICE OF PETITIONS

In re Application of :
Russell James Delmar Holmes et al :
Application No. 10/143,354 : NOTICE
Filed: May 10, 2002 :
Attorney Docket No. UDC-0014

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

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

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

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK NY 10281-2101

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JUL 12 2007

OFFICE OF PETITIONS

In re Application of :
Brian C. Jones et al :
Application No. 10/143,360 : DECISION ON PETITION
Filed: May 9, 2002 :
Attorney Docket No. :
3584-4024US1

This is a decision on the petition under 37 CFR 1.137(b), filed January 10, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 30, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on August 31, 2006. A Notice of Abandonment was mailed on January 12, 2007, subsequent to the filing date of this petition.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of an amendment, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the non-final Office action of May 30, 2006 is accepted as being unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,020 extension of time fee submitted with the petition on January 10, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account in due course.

This application is being referred to Technology Center AU 1634 for appropriate action in the normal course of business on the reply received January 10, 2007.

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

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/13/05

TO SPE OF : ART UNIT 1754

10/143411

SUBJECT : Request for Certificate of Correction on Patent No.: 6780805

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:

Cam Nguyen
CAM N. NGUYEN
PRIMARY EXAMINER
AU-1754 3/1/05

SPE

Art Unit

OIPE JC46
OCT 2 2 2004
PATENT & TRADEMARK OFFICE

Copy

PATENT
SP00-324A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Number: 6,780,805 B2

Patentees: Faber et al.

Serial No: 10/143,411

Filed: May 9, 2002

For: ZEOLITE/ALUMINA CATALYST SUPPORT COMPOSITIONS AND METHOD OF MAKING THE SAME

Group Art Unit: 1754

Examiner: Cam N. Nguyen

REQUEST FOR CERTIFICATE OF CORRECTION FOR PTO MISTAKE PURSUANT TO 35 U.S.C. § 254 AND 37 C.F.R. § 1.322

Attention: Certificate of Corrections Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Certificate
OCT 2 6 2004
of Correction

Approved! CNN 3/11/05

Sir:

This is a request for the issuance of a Certificate of Correction in the above-identified patent. Two (2) copies of Form PTO 1050 are appended. The corrections involve:

In the Claims:

Examiner's Amendment dated 5/11/04:

Claim 20 (now renumbered claim 3), line 1

Claim 21 (now renumbered claim 4), line 1

The mistake identified in the appended Form occurred through the fault of the Patent Office, as clearly disclosed by the records of the application which matured into this patent.

Issuance of the Certificate of Correction is requested.

Respectfully submitted,

CORNING INCORPORATED

Kees van der Sterre

Kees van der Sterre
Registration No.: 25,938
SP-TI-3
Corning, NY 14831
Phone: (607) 974-3294

Date: October 19, 2004

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Attention: Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on

10/19/04
Date of Deposit

Kees van der Sterre

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

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,780,805

DATED : August 24, 2004

INVENTOR(S) : Faber et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Claim 3, lines 50-51, "the catalyst system comprises" should be --the catalyst comprises--.

Claim 4, lines 53-54, "the catalyst system comprises" should be --the catalyst comprises--.

MAILING ADDRESS OF SENDER:

Corning Incorporated
SP-TI-3-1
Corning, NY 14831

PATENT NO. 6,780,805

No. of additional copies

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/44 (04-04)
Approved for use through 04/30/2007. OMB 0651-0033
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(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,780,805

DATED : August 24, 2004

INVENTOR(S) : Faber et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Claim 3, lines 50-51, "the catalyst system comprises" should be --the catalyst comprises--.

Claim 4, lines 53-54, "the catalyst system comprises" should be --the catalyst comprises--.

MAILING ADDRESS OF SENDER:

Corning Incorporated
SP-TI-3-1
Corning, NY 14831

PATENT NO. 6,780,805

No. of additional copies

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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

Killworth, Gottman, Hagan & Schaeff, L.L.P.
Suite 500
One Dayton Centre
Dayton, OH 45402-2023

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AUG 1 9 2002

OFFICE OF PETITIONS

In re Application of
Rudeck et al.
Application No.10/143,450
Filed: May 5, 2002
Attorney Docket No. MIO 0053 V2

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR §1.47(b), filed May 5, 2002. This petition will be treated under 37 CFR §1.47(a).[1]

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 May 5, 2002, without a fully executed oath or declaration. Although rule 47 applicant indicates a check for $130.00 pursuant to 37 CFR 1.17(h) was included with the application, a search of the record indicates a petition fee was not received. Further review of the record also indicates a deposit account has not been provided. As such this petition must be dismissed.

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

---

[1] Where at least one inventor has signed an oath or declaration it is appropriate for the petition to be treated under 37 CFR §1.47 (a). A petition filed under 37 CFR §1.47(b) is appropriate where all inventors have either refused to execute the oath or declaration, or cannot be located.

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

Nancy Johnson for

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Killworth, Gottman, Hagan & Schaeff, L.L.P.
Suite 500
One Dayton Centre
Dayton, OH 45402-2023

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OFFICE OF PETITIONS

In re Application of
Paul Rudeck, Francis Benistant and Kelly Hurley
Application No.10/143,450
Filed: May 10, 2002
Attorney Docket Number: MIO 0053 V2

ON RENEWED PETITION

This is in response to the renewed petition under 37 CFR 1.47(a), filed November 13, 2002 and supplemented on December 18, 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).

Pursuant to petitioner's authorization the petition fee of $130.00 was charged to petitioner's credit card.

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

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KENYON & KENYON
ONE BROADWAY
NEW YORK, NY 10004

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SEP 26 2005

OFFICE OF PETITIONS

In re Application of	:	
Scheying et al.	:	
Application No. 10/143,453	:	ON PETITION
Filed: May 10, 2002	:	
Atty Docket No. 10191/2004B	:	

This is in response to the paper styled "REQUEST TO ACCORD A FILING DATE OF SEPTEMBER 12, 2001, AND PETITION UNDER 37 C.F.R. § 1.183" filed September 1, 2005, requesting that the above-identified application be accorded a filing date of September 12, 2001, rather than the presently accorded filing date of May 10, 2002.

The petition under 1.53(e)(2) to accord a filing date is **dismissed**.

The petition under § 1.183 for suspension or waiver of the rules is **dismissed**.

Application papers were deposited in the above-identified application via the Express Mail service of the United States Postal Service on May 10, 2002. Accordingly, the application was accorded a filing date of May 10, 2002. The record supports a conclusion that applicants were so advised of the filing date of May 10, 2002, by filing receipt mailed June 6, 2002.

More than three years later, applicants filed the instant petition requesting a filing date of September 12, 2001. Applicants contend that they are entitled to the September 12, 2001 filing date because applicants complied with the requirements of 37 C.F.R. § 1.6(e) and 35 U.S.C. § 21(a) in

promptly filing the parent application after the ending of the postal service interruption. Alternatively, applicants hereby petition under 37 C.F.R. § 1.183 for suspension or waiver of the requirements of Rule 1.6(e) so that a filing date of September 12, 2001 can be accorded to the present application.

Pursuant to 35 U.S.C. 111(a)(4), the filing date of an application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office. As provided for in 37 CFR §§ 1.6(a)(2) and 1.10(a), correspondence received by the USPTO that was delivered by the "Express Mail Post Office to Addressee" service of the USPS is considered filed in the Office on the date of deposit with the USPS shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation.

As a consequence of the events in New York City on September 11, 2001, all post offices in the borough of Manhattan were closed. Recognizing the impact of this, on October 9, 2001, the Office posted a Notice entitled "United States Postal Service Interruption and Emergency," 1251 Off. Gaz. Pat. Office 55 (Oct. 9, 2001). Therein, the Director designated the interruption in the service of the United States Postal Service (USPS) in the borough of Manhattan as a postal service interruption and an emergency within the meaning of 35 U.S.C. 21(a) and 37 CFR 1.6(e). 35 U.S.C. 21(a) provides that the Director may by rule prescribe that any paper or fee required to be filed in the Patent and Trademark Office will be considered filed in the Office on the date on which it was deposited with the United States Postal Service or would have been deposited with the United States Postal Service but for postal service interruptions or emergencies designated by the Director. 37 C.F.R. 1.6(e) further provides that if interruptions or emergencies in the United States Postal Service which have been so designated by the Director occur, the Patent and Trademark Office will consider as filed on a particular date in the Office any correspondence which is:

(1) Promptly filed after the ending of the designated interruption or emergency;
and

(2) Accompanied by a statement indicating that such correspondence would have been filed on that particular date if it were not for the designated

interruption or emergency in the United States Postal Service.

It is noted that by notice dated November 20, 2001, the Office terminated this postal service interruption and emergency.

These provisions are not applicable to the instant application. It is undisputed that this application was not deposited with the United States Postal Service until May 10, 2002. Further, there is no argument that the date of deposit of this application was not directly affected by the events of September 11, 2001. In other words, applicants do not offer evidence that the application papers in this application deposited on May 10, 2002 would have been deposited on September 12, 2001, but for the interruption in postal service.

Rather, petitioners argue that because the filing of a "grandparent" application was affected by these events then the instant application should be accorded a filing date of September 12, 2001. This argument is wholly not persuasive. The relief provided for applied to those applications that would have been deposited during the interruption in postal service. Thus, any relief to be provided would be directed to the grandparent application, or to the parent application. In fact, the grandparent application was accorded a filing date of September 12, 2001; and the parent application was accorded a filing date of September 21, 2001. (Any petition that the parent application should have been accorded a filing date of September 12, 2001 should have been timely filed in the parent application). The relief did not provide for according an earlier filing date to continuing applications admittedly subsequently filed, but containing the same subject matter.

Under the circumstances, suspension or waiver of the requirements of rule 1.6(e) is not warranted. As acknowledged by applicants, the instant application was deposited on May 10, 2002, which was not during a designated postal interruption. Even if the Office considered applicants to have attempted to deposit the instant application, first as application No. 09/949,730 on September 12, 2001 (without drawings) and then re-filed as application No. 09/957,898 on September 21, 2001 (with drawings), the instant request was not promptly filed. Applicants offer no explanation for the delay in requesting relief relative to this application. Finally, justice does not appear to require suspension or waiver of the rules, in this

instance. A review of the records indicates that a claim to priority to the foreign application could be achieved by correcting the filing date of parent application No. 09/957,898. (Petitioner is advised that the letter filed September 21, 2001 in application No. 09/957,898, requesting a filing date of September 12, 2001 has been forwarded for processing).

As the specification and any required drawing were first deposited in this application on May 10, 2002, this application is entitled to, and properly accorded, a filing date of May 10, 2002.

This application will continue to be processed with a filing date of May 10, 2002.

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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KENYON & KENYON
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NEW YORK, NY 10004

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OFFICE OF PETITIONS

In re Application of	:	
Scheying et al.	:	
Application No. 10/143,453	:	ON PETITION
Filed: May 10, 2002	:	
Atty Docket No. 10191/2004B	:	

This is in response to the REQUEST FOR RECONSIDERATION OF DECISION TO DISMISS REQUEST TO ACCORD A FILING DATE OF SEPTEMBER 12, 2001, AND PETITION UNDER 37 C.F.R. 1.183 filed November 10, 2005 (and resubmitted April 18, 2006). Applicants request that the above-identified application be accorded a filing date of September 12, 2001, rather than the presently accorded filing date of May 10, 2002.

BACKGROUND

Applicants filed the initial request to accord this application a filing date of September 12, 2001 on September 1, 2005. By decision mailed September 26, 2005, the petition was dismissed under both 37 CFR § 1.53(e)(2) and 37 CFR § 1.183. Pursuant to 35 USC 111, the application was not entitled to a filing date of September 12, 2001, given that the specification and any required drawings were indisputably first deposited[1] in the Express Mail service of the USPS on May 10, 2002.

Moreover, applicants were advised that as the instant application was first deposited in the Office on May 10, 2002, the provisions of the Official Notice[2] designating the

[1] 37 CFR § 1.10(a)(1) provides that: Any correspondence received by the U.S. Patent and Trademark Office (USPTO) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed with the USPTO on the date of deposit with the USPS.
[2] See *United States Postal Service Interruptions*, 1251 Off. Gaz. Pat. Office 55 (October 9, 2001) and *United States Postal Service Interruptions and Emergency Terminated*, 1252 Off. Gaz. Pat. Office 104 (November 20, 2001).

interruption in the service of the USPS in the borough of Manhattan, from about September 11, 2001 to November 20, 2001, as a postal service emergency and interruption within the meaning of 35 U.S.C. 21(a) were inapplicable. It was noted that applicants did not offer evidence that the application papers in this application deposited on May 10, 2002 would have been deposited on September 12, 2001, but for the interruption in postal service.

Furthermore, applicants were advised that the fact that a "grandparent" application was affected by these events would not have any bearing of the filing date accorded to this application. Any relief to be provided would be directed to the grandparent application, or to the parent application, or other application filed during the relevant time period. Applicants were advised that any relief contemplated did not provide for according an earlier filing date to continuing applications admittedly subsequently filed, but containing the same subject matter.

Finally, it was noted that the request for relief was not promptly filed. And, it appeared that a claim to priority to the foreign application could be achieved by correcting the filing date of parent application No. 09/957,898. (A decision was separately mailed in the parent application on February 13, 2006).

Given these circumstances, it was concluded that suspension or waiver of the requirements of rule 1.6(e) was not warranted.

OPINION

Applicants filed a request for reconsideration in parent application '898, with a copy being filed in the instant application. Applicants assert that is believed that the benefit of the earlier filing date of the parent application, as stipulated under 35 U.S.C. § 120, is more appropriately assigned to the present application, which is pending, rather than to the present application, which is now abandoned, since it has ultimately continued as the present case.

Consideration of this petition is not more properly undertaken in the instant application. For the reasons stated in the previous dismissal, including the undisputed filing of the specification and any required drawings in this application on

May 10, 2002, the instant application is entitled to a filing date of May 10, 2002. The provisions set forth due to the postal interruption of September 2001 remain inapplicable to this application. The fact that this application may claim the benefit of the filing date of the earlier application, pursuant to 35 U.S.C. 120[3], does not change the fact that the filing date of this application is pursuant to 35 U.S.C. 111(a). The filing date is based on the filing of the specification and any required drawings in this application. The actual filing date of this application under 35 U.S.C. 111(a) is May 10, 2002. Upon meeting the requirements of 35 U.S.C. 120, this application may claim the benefit of the actual filing date of any earlier application. Thus, the issue is the actual filing date of the earlier application. Accordingly, this petition is properly considered in the earlier filed application. (Applicants may file a petition to revive in the earlier filed application to return it to pendency).

CONCLUSION

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

This application will continue to be processed with a filing date of May 10, 2002.

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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[3] 35 U.S.C. 120
An application for patent for an invention disclosed in the manner provided by the first paragraph of section 112 of this title in an application previously filed in the United States, or as provided by section 363 of this title, which is filed by an inventor or inventors named in the previously filed application shall have the same effect, as to such invention, as though filed on the date of the prior application, if filed before the patenting or abandonment of or termination of proceedings on the first application or on an application similarly entitled to the benefit of the filing date of the first application and if it contains or is amended to contain a specific reference to the earlier filed application.

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CHOATE HALL & STEWART LLP
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BOSTON, MA 02110

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SEP 21 2005

OFFICE OF PETITIONS

In re Application of :
Andrew C. Braisted et al :
Application No. 10/143,455 : DECISION ON PETITION
Filed: May 10, 2002 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 2004345-0004

This is a decision on the petition under 37 CFR 1.78(a)(6), filed June 2, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

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

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed 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. 60/310,725, which was filed on August 7, 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.

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.

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 Irvin Dingle at (571) 272-3210. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 1639 for appropriate action on the amendment submitted June 2, 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. 60/310,725.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions

cc:

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

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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Michael J. Mlotkowski
Roberts, Mlotkowski & Hobbes, PC
8270 Greensboro Drive
Suite 850
McLean VA 22102

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NOV 29 2007

OFFICE OF PETITIONS

In re Application of :
Roberto O. Pellizzani :
Application No. 10/143,463 : DECISION ON PETITION
Filed: May 10, 2002 :
Attorney Docket No. :
F001(RMH 10586)

This is a decision on the petition under 37 CFR 1.181, filed June 16, 2006, requesting withdrawal of the holding of abandonment in the above-identified application. This is also a decision on the petition under 37 CFR 1.137(b), filed September 25, 2007, to revive this application

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

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

This application was held abandoned for failure to timely pay the issue and publication fees on or before May 2, 2006 as required by the Notice of Allowance and Fee(s) Due, mailed February 2, 2006. A Notice of Abandonment was mailed on June 9, 2006.

DISCUSSION OF PETITION UNDER 37 CFR 1.181

Petitioner states that the issue and publication fees were timely transmitted to the USPTO by facsimile transmission on April 27, 2006, and that his Monthly Statement of Account for Deposit Account No. 50-2478 had sufficient funds to charge the requested fees. Therefore, as the issue and publication fees were timely paid, petitioner requests that the holding of abandonment be withdrawn.

Office records indicate that, at the time the Office attempted to charge the issue and publication fees to petitioner's deposit account, there was only $182 balance in the account, which was an insufficient amount to charge the requested fees. Petitioner has

not complied with 37 CFR 1.25 which requires that the deposit account must have at all times a sufficient amount to charge the requested fees at the time of processing. As it is clear from the record, there were insufficient funds in the deposit account to charge the requested fees at the time the Office attempted to process the fees. Accordingly, the holding of abandonment was proper and will not be withdrawn.

DISCUSSION OF PETITION UNDER 37 CFR 1.137(b)

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,400 and the publication fee of $300, (2) the petition fee of $1,500, 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 the undersigned at (571) 272-3218.

This application is being referred to Office of Data Management for appropriate processing in accordance with this decision on petition.

Frances Hicks
Petitions Examiner
Office of Petitions

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NOV 24 2003

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Troutman Sanders LLP
Bank of America Plaza, Suite 5200
600 Peachtree Street, NE
Atlanta, GA 30308-2216

Paper No. 8

In re Application of Shigeki Kuroda et al Serial No. : 10/143,472 Filed : May 10, 2002 For : Athletic Glove	: DECISION ON PETITION : TO WITHDRAW : HOLDING OF : ABANDONMENT :

This is a decision on petitioner's request filed November 4, 2003 to review the holding of abandonment mailed September 4, 2003, for failure to respond to the Office action mailed January 30, 2003. The basis for the request is that applicant did not receive the communication mailed January 30, 2003. There is no fee required for this petition.

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

The request filed November 4, 2003 includes all the above elements. The request is therefore GRANTED and the holding of abandonment withdrawn. Upon the mailing of this decision, the application will be forwarded to the Legal Instruments Examiner for the re-mailing of the Office action of January 30, 2003.

Summary: Holding of Abandonment Withdrawn.

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

ak/11/18/03

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NEW YORK NY 10017-5612

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OFFICE OF PETITIONS

In re Application of :
Benson, et al. :
Application No.: 10/143,502 : DECISION GRANTING PETITION
Filed: May 10, 2002 :
Attorney Docket No.: 00516.US1/ PC26974A :
FOR: CRYSTALLIZATION AND STRUCTURE DETERMINATION OF BETA SECRETASE AND OR BETA-SECRETASE-LIKE PROTEINS

This is a decision on the petition, filed January 9, 2006, under 37 CFR 1.137(b) to revive the above-identified application.

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the December 10, 2004 non-final Office action. No response being received and no extensions of time being obtained, this application became abandoned on March 11, 2005. A Notice of Abandonment was mailed on September 16, 2005.

Applicants have submitted two amendments in reply to the December 10, 2004 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the December 10, 2004 non-final Office action, and the petition fee.

The petition is **GRANTED**.

The revocation and power of attorney filed on January 9, 2006 has been entered and made of record. Please find enclosed documentation reflecting the changes.

Petitioners have been charged two Rule 137(b) petition fees. Only one is required. Pursuant to petitioners' authorization, deposit account no. 16-1445 will be credited $1,500.00.

After the mailing of this decision the application will be forwarded to Technology Center AU 1656 for consideration of the amendments filed on December 12, 2005 (certificate of mailing date December 9, 2005) and January 9, 2006.

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

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

enclosures: Notices regarding power of attorney

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OFFICE OF PETITIONS

In re Application of :
Benson, et al. :
Application No. 10/143,502 : ON PETITION
Filed: May 10, 2002 :
Attorney Docket No. PC 26974 :
For: CRYSTALLIZATION AND STRUCTURE DETERMINATION OF BETA SECRETASE AND/OR BETA SECRETASE-LIKE PROTEINS

This is a decision on the petition under 37 CFR 1.137(b), filed on January 18, 2007 (certificate of mailing date January 12, 2007), to revive the above-identified application.

This application became abandoned for failure to properly respond to the final Office action mailed May 17, 2006, which set an extendable three month period for reply. Applicants submitted a two month extension of time and an amendment after final on October 12, 2006. The amendment after final failed to place this application in *prima facie* condition for allowance, as was explained in the December 19, 2006 Notice of Abandonment.

Applicants have submitted a Notice of Appeal and required fee in reply to the May 17, 2006 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the May 17, 2006 final Office action, and the petition fee.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

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

This application is being referred to Technology Center AU 1656 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of	:	
Cho et al.	:	
Application No. 10/143,505	:	DECISION ON PETITION
Filed: May 10, 2002	:	
Attorney Docket No. 2080-3-101	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 31, 2006, to revive the above-identified application.

This application became abandoned for failure to submit a proper reply to the final Office action mailed on June 28, 2005, which set a three-month shortened statutory period to respond. On December 30, 2005 (certificate of mailing dated December 27, 2005), petitioner submitted an extension of time for response within the third month and a timely amendment in response to the final Office action. On January 23, 2006, the examiner mailed an Advisory Action, stating that the amendment did not place the application in condition for allowance. Accordingly, the application became abandoned on December 29, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of an RCE and a previously filed amendment, made the proper statement of unintentional delay, and paid the requisite fees. Accordingly, the petition is **granted.**

This matter is being referred to Technology Center Art Unit 2616.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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In re Application of :
Steven W. Lundberg :
Application No. 10/143,506 : ON PETITION
Filed: May 10, 2002 :
Attorney Docket No.: 1551.014US1 :

This is a decision on the petition filed June 12, 2008, under 37 CFR 1.181, to withdraw the holding of abandonment for the above-identified application.

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

In response to a non-Final Office Action mailed April 19, 2007, which set a three month period for reply, petitioners filed a Request for Continued Examination (RCE) with an amendment and a three month extension of time request on October 22, 2007 (October 19, 2007 certificate of mail date). Since the office action mailed was a non-Final Office Action and prosecution was not closed, a Notice of Improper RCE was mailed on March 21, 2008. Subsequently, a Notice of Abandonment was mailed on May 14, 2008.

Petitioner argues that notwithstanding the Improper RCE, a timely response to the non-Final Office Action was filed.

As the office action mailed was non-Final and as an amendment was filed with the RCE, the RCE was improper however the amendment was a proper response to the office action. In view thereof, the application should not have been held abandoned. The Notice of Abandonment was sent in error and is hereby withdrawn. No petition fee is due and none has been charged.

This matter will be referred to Technology Center 2162 for appropriate action on the amendment filed October 22, 2007 (October 19, 2007 certificate of mail date) as a proper response to the non-Final Office Action mailed April 19, 2007.

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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GUDRUN E. HUCKETT
LONSSTR. 53
WUPPERTAL, 42289
GERMANY

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Gunter Ebi	:
Application No. 10/143,546	:
Filed: May 10, 2002	:
Attorney Docket No. 1218.GOY	:

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee and the publication fee in a timely manner in reply to the Notice of Allowance mailed March 29, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 20, 2004.

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

The application file is being referred to the Office of Patent Publication.

Karen Creasy

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

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4 RESEARCH DRIVE, SUITE 202
SHELTON CT 06484-6212

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OFFICE OF PETITIONS

In re Patent No 6,805,276
Issue Date: October 19, 2004
Application No. 10/143,558
Filed: May 10, 2002
Attorney Docket No. 003D.0001.U1(US)

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed January 9, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on October 19, 2008 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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

The patent file is being forwarded to Files Repository.

Thurman Page
Petitions Examiner
Office of Petitions

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GARRETT & DUNNER
1300 I STREET, NW
WASHINGTON, DC 20005

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OFFICE OF PETITIONS

In re Application of :
Robert W. Scheifler et al :
Application No. 10/143,574 :
Filed: May 13, 2002 :
Attorney Docket No. 6502.0118-02 :

ON PETITION

This is a decision on the petition under 37 CFR 1.314, filed November 1, 2004, to defer issuance of the instant application into a patent.

The petition is **GRANTED**.

In the absence of an extraordinary circumstance, it has been the policy of the Office to defer issuance of a patent, upon request, for a period of up to one month only. Note MPEP 1306.01. Accordingly, the deferral period has now passed.

Any questions concerning this matter may be directed to Wan Laymon at (571) 272-3220. Any questions concerning the issuance of this application into a patent should be directed to Customer Services at (703) 308-67893.

This matter is being referred to Technology Center AU 2157 for resolution of the issue concerning the Information Disclosure Statement, as set forth in the instant petition.

Wan Laymon

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

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United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 12

NANCY J. FLINT
HUNTON & WILLIAMS, PATENT DEPT.
SUITE 1200
1900 K STREET
WASHINGTON, DC 20006-1109

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MAR 1 0 2003

OFFICE OF PETITIONS

In re Application of	:
Scott W. Rau et al	:DECISION DISMISSING PETITION
Application No. 10/143,581	:UNDER 37 CFR 1.137(f)
Filed: May 10, 2002	:
Attorney Docket No. 47004.000049	:

This is a decision on the petition under 37 CFR 1.137(f),[1] filed January 15, 2003, to revive the above-identified application.

The petition is **dismissed** as inappropriate for the reasons stated below.

The record discloses that, on May 10, 2002, the date of filing of the instant application, a Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) was filed certifying that "the invention disclosed in the above-referenced patent **application has not and will not** be the subject of an application filed in another country, or under a multilateral international agreement, that requires publication at eighteen months after filing."

Petitioner now requests under 35 U.S.C. § 122(b)(2)(B)(ii) that the Request and Certification Under 35 U.S.C. § 122(b)(2)(B)(i) be rescinded and the application revived because this application became abandoned for failure to notify the Office within 45 days of the filing of a corresponding international or foreign application. In this regard, petitioner states that the subject application is a divisional application of U.S. Application No. 09/630,595, filled on August 1, 2000, which is the subject of a PCT application (PCT/US01/23030), filed on July 23, 2001, which date is prior to the date of filing the instant application.

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[1] 37 CFR 1.137(f) provides for revival of a nonprovisional application which became abandoned pursuant to the provisions of 35 U.S.C. § 122(b)(2)(B)(iii) for failure to timely notify the Office of the filing of an application in a foreign country or under a multinational treaty that requires publication of applications eighteen months after filing.

The instant nonprovisional application did not become abandoned as a result of the filing of a corresponding application filed in another country, or under a multilateral international agreement, **subsequent** to the filing of the present application. In this regard, 35 U.S.C. § 122((b)(2)(B)(iii) states:

> An applicant who has made a request under clause (i) but who **subsequently files, in a foreign country or under a multilateral international agreement** specified in clause (i), an application directed to the invention disclosed in the application filed in the Patent and Trademark Office, shall notify the Director of such filing not later than 45 days **after the date of the filing of such foreign or international application**. A failure of the applicant to provide such notice within the prescribed period shall result in the application being regarded as abandoned, unless it is shown to the satisfaction of the Director that the delay in submitting the notice was unintentional [emphasis supplied].

The facts of this case are that the subject application was filed on May 10, 2002, and the corresponding foreign application was filed on July 23, 2001. The statute does not provide for the situation where a certification under 35 U.S.C. § 122(b)(2)(B)(i) was made, despite the fact that an application was previously filed in another country or under the multilateral international agreement. The statute at 35 U.S.C. § 122(b)(2)(B)(iii) only provides for revival in the situation where a certification was made under 35 U.S.C. § 122(b)(2)(B)(i) at the time of filing the application and an application was subsequently filed in a foreign country without notifying the Office within 45 days of the filing thereof.

In view of the above and since this application did not become abandoned pursuant to the provisions of 35 U.S.C. § 122(b)(2)(B)(iii), a petition to revive under the provisions of 37 CFR 1.137(f) is inappropriate and must be dismissed.

As requested, the Request and Certification Under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Corrected Filing Receipt indicating the projected date of publication of June 19, 2003 accompanies this decision.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition. *See* 35 U.S.C. § 41(c)(7). Accordingly, the petition fee of $1,300 charged to petitioner's deposit account on January 17, 2003 will not be refunded.

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

This application is being forwarded to Technology Center AU 3627 to await a reply to the final Office action mailed January 28, 2003.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

cc:

Nancy J. Flint
Hunton & Williams
1111 Brickell Avenue, Suite 2500
Miami, Florida 33131

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SUITE 1200
WASHINGTON DC 20006-1109

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OFFICE OF PETITIONS

In re Application of	:	
Scott W. Rau et al	:	
Application No. 10/143,581	:	DECISION GRANTING PETITION
Filed: May 10, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 47004.000206	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 23, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 28, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

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

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INTELLECTUAL PROPERTY DEPARTMENT
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SUITE 1200
WASHINGTON, DC 20006-1109

Mail Date: 05/21/2010

Applicant	: Scott W. Rau	: DECISION ON REQUEST FOR
Patent Number	: 7702538	: RECALCULATION of PATENT
Issue Date	: 04/20/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/143,581	: OF WYETH
Filed	: 05/10/2002	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

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DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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UR
PAPER NO.10

In re Application of	:	
Bruce F. Field et al.	:	DECISION
Serial No. 10/143,582	:	ON
Filed: May 09, 2002	:	PETITION
For: CLEANING LIQUID DISPENSING	:	UNDER 708.02, V
SYSTEM FOR A HARD FLOOR	:	
SURFACE CLEANER	:	

This is in response to the petition filed October 07, 2002, requesting that the above-identified application be granted Special Status under Sections 708.02 (V) of the MPEP and 37 CFR 1.102(c).

The petition has been considered and found to comply with the requirements set forth under the above-noted section. Accordingly the petition is **GRANTED.**

Richard V. Fisher, Director
Technology Center 1700
Chemical and Materials Engineering

Brian D. Kaul
WESTMAN CHAMPLIN & KELLY
900 South Second Avenue
Suite 1600-International Centre
Minneapolis, MN 55402-3319

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Paper No. 7

GOODWIN PROCTER
7 BECKER FARM RD
ROSELAND, NJ 07068

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JUN 17 2003

OFFICE OF PETITIONS

In re Application of :
Gerhard Bringmann et al :
Application No. 10/143,596 : ON PETITION
Filed: May 9, 2002 :
Attorney Docket No. 103832-392-NP :

This is a decision on the petition under 37 CFR 1.137(b), filed April 1, 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 June 18, 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 September 19, 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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OFFICE OF PETITIONS

In re Application of
Cosman
Application No. 10/143,618
Filed: May 8, 2002
Attorney Docket No. 2624-B

DECISION
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 7, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance and Fee(s) Due, mailed April 29, 2004, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on July 30, 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 the issue fee of $1400 and the publication fee of $300; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the issue and publication fee payments are accepted as having been unintentionally delayed.

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

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

The application matter is being forwarded to Office of Patent Publication.

Frances Hicks
Petitions Examiner
Office of Petitions

Cc: Paul B. Tran
U.S. Patent Operations/PBT
Dept. 4300, M/S 29-2-C
AMGEN INC.
One Amgen Center Drive
Thousand Oaks, CA 91320-1799

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10TH FLOOR
LOS ANGELES, CA 90045

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OFFICE OF PETITIONS

In re Application of :
Karl R. Leinsing et al. :
Application No. 10/143,619 : ON PETITION
Filed: May 8, 2002 :
Attorney Docket No. IVACP-61098 :

This is a decision on the petition under 37 CFR 1.137(b)[1], filed April 7, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned August 18, 2005 for failure to timely reply to the final Office Action mailed May 17, 2005. The instant petition and this decision precede the mailing of the Notice of Abandonment.

In response thereof, petitioner has submitted a Request for Continued Examination (RCE) and requests that the amendment filed July 18, 2005 be accepted as the submission required under 37 CFR 1.114.[2]

This matter is being referred to Technology Center 3763 for processing of the RCE.

Telephone inquiries related to this decision 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)).

[2]The Examiner has indicated that the amendment filed July 18, 2005 does not place the application in condition for allowance.

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Paper No. 6

Sharon L. Poulson
3157 E. Jerome Ave.
Mesa AZ 85204

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OFFICE OF PETITIONS

In re Application of :
Sharon L. Poulson :
Application No. 10/143,634 :
Filed: May 10, 2002 :
Title: Candle Fireplace Illuminator :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed August 25, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned on July 16, 2003, for failure to file a timely response to the nonfinal Office action mailed on April 15, 2003, which set a three (3) month shortened statutory period for reply. Petitioner did not obtain any extensions of time to reply under 37 CFR 1.136(a). A Notice of Abandonment was mailed on November 18, 2003.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

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

(2) the petition fee as set forth in § 1.17(l);

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and

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

This petition lacks items (1) and (3), above.

As to item (1), this application became abandoned for failure to file a response to the nonfinal Office action of April 15, 2003, within the period set for response. The proposed response required for consideration of a petition to revive must be an amendment, request for reconsideration or the filing of a continuing application. Petitioner has failed to file a reply previously, or with the present petition. Petitioner must submit a proper response to the nonfinal Office action with any renewed petition.

As to item (3), petitioner states her attorney, Mr. Breaux, allowed the present application to become abandoned without her knowledge. Petitioner states that she made several attempts to contact Mr. Breaux but has been unsuccessful. Petitioner explains that Mr. Breaux suffered several heart attacks in late 2003 and left his law practice. Petitioner asserts that Mr. Breaux forwarded most of his cases to Roy, Kiesel, Keegan & DeNicola; however, petitioner's application was not included.

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

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

unavoidable, all other conditions of promptness in its rectification being present.[1]

The showing of record has been considered, but is not persuasive. The U.S. Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and the applicant is bound by the consequences of those actions or inactions.[2] Specifically, petitioner's delay caused by the mistakes or negligence of her voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 U.S.C. 133 or 37 CFR 1.137(a).[3] Furthermore, petitioner is reminded that the U.S. Patent and Trademark Office is not the proper forum for resolving a dispute between petitioner and petitioner's representative.[4]

Petitioner asserts and the record indicates that Mr. Breaux was responsible for prosecution of the above-identified application when the reply necessary to avoid abandonment was due. An adequate showing of unavoidable delay must include a statement from Mr. Breaux as to why action was not taken to prevent the application from becoming abandoned while the application was under his control. Petitioner should send a letter (accompanied by a copy of this decision) to Mr. Breaux at his last known address by registered or certified mail, return receipt requested, indicating to Mr. Breaux that the USPTO is requesting his assistance in determining the circumstances surrounding the abandonment of the above-identified application. Such statements should be accompanied by copies of any documents (*e.g.* correspondence between petitioner and counsel) relevant to the outstanding Office action, as well as any information regarding Mr. Breaux's medical condition during the period for response to the nonfinal Office action. In the event that Mr. Breaux fails to provide a statement within a period (*e.g.*, within one (1)

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[1] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[2] Link v. Wabash, 370 U.S. 626, 633-34 (1962).

[3] Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (D. Ind. 1987); 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 (Comm'r Pat. 1891).

[4] Ray v. Lehman, 55 F.3d 606, 608-09, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995).

month) specified in such letter, petitioner should submit a copy of such letter and the return receipt indicating its delivery to Mr. Breaux with any renewed petition under 37 CFR 1.137(a).

In summary, while the circumstances surrounding the abandonment of this application and the extended delay in filing the present petition to revive are unfortunate, they do not rise to the level of unavoidable delay. Therefore, the petition is dismissed.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b), which provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after 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 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 37 CFR 1.137(c)).

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

intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Should petitioner decide to file a petition under 37 CFR 1.137(b), the additional petition fee due would be $685.00 (small entity).

A copy of the form for filing a petition under 37 CFR 1.137(b) to revive an application unintentionally abandoned is enclosed herewith for petitioner's convenience.

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

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

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

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petition
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosures: Form PTO/SB/64
Privacy Act Notification Form

UNITED STATES PATENT AND TRADEMARK OFFICE

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CAHILL, VON HELLENS & GLAZER P.L.C.
155 PARK ONE
2141 EAST HIGHLAND AVENUE
PHOENIX AZ 85016

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JAN 1 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Sharon L. Poulson	:	
Application No. 10/143,634	:	ON PETITION
Filed: May 10, 2002	:	
Attorney Docket No. 6772-C	:	

This is a decision on the renewed petition under 37 CFR 1.137(a), filed January 7, 2005 (certificate of mailing dated January 5, 2005), to revive the above-identified application.[1]

This is also a decision on the petition under 37 CFR 1.137(b), filed January 7, 2005 (certificate of mailing dated January 5, 2005).

The application became abandoned on July 16, 2003, for failure to file a timely response to the nonfinal Office action mailed on April 15, 2003, which set a three (3) month shortened statutory period for reply. Petitioner did not obtain any extensions of time to reply under 37 CFR 1.136(a). A Notice of Abandonment was mailed on November 18, 2003.

In view of the evidence submitted on petition, petitioner has meet the requirements under 37 CFR 1.137(a). Accordingly, the petition under 37 CFR 1.137(a) is **granted**.

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

Petitioner submitted two checks in the amount of $60.00 for a one month extension of time to respond and $750.00 for the petition fee under 37 CFR 1.137(b). The current fee for a one-month

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[1]Petitioner obtained a one-month extension of time to file the present renewed petition.

extension of time is $55.00. Additionally, the current fee for a petition under 37 CFR 1.137(b) is $685.00. Therefore, petitioner may obtain a refund of $755.00. Petitioner may request a refund of the $755.00 by writing to the following address:

Mail Stop 16
Director of the US Patent and Trademark Office
PO Box 1450
Alexandria, VA 22313-1450

A copy of this decision should accompany petitioner's request.

This matter is being referred to Technology Center Art Unit 2875 for a review of the reply filed with the present petition.

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

Christina Tartera Donnell

Christina Tartera Donnell
Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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PHOENIX AZ 85016

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MAY 16 2005

OFFICE OF PETITIONS

In re Application of	:	
Sharon L. Poulson	:	
Application No. 10/143,634	:	**CORRECTED DECISION**
Filed: May 10, 2002	:	**ON PETITION**
Attorney Docket No. 6772-C	:	

This is a decision on the renewed petition under 37 CFR 1.137(a), filed January 7, 2005 (certificate of mailing dated January 5, 2005), to revive the above-identified application.[1]

This is also a decision on the petition under 37 CFR 1.137(b), filed January 7, 2005 (certificate of mailing dated January 5, 2005).

The application became abandoned on July 16, 2003, for failure to file a timely response to the nonfinal Office action mailed on April 15, 2003, which set a three (3) month shortened statutory period for reply. Petitioner did not obtain any extensions of time to reply under 37 CFR 1.136(a). A Notice of Abandonment was mailed on November 18, 2003.

In view of the evidence submitted on petition, petitioner has meet the requirements under 37 CFR 1.137(a). Accordingly, the petition under 37 CFR 1.137(a) is **granted**.

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

Petitioner submitted two checks in the amount of $60.00 for a one month extension of time to respond and $750.00 for the petition fee under 37 CFR 1.137(b). The fee for a one-month extension of

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[1]Petitioner obtained a one-month extension of time to file the present renewed petition.

time is $60.00. Additionally, the fee for a petition under 37 CFR 1.137(b) is $750.00. **Therefore, the petitioner may obtain a refund of $750.00, instead of $755.00 as stated in the decision dated January 11, 2005.** A refund of $750.00 by treasury check is forthcoming in response to petitioner's written request for a refund. The Office apologizes for the error.

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

Christina Tartera Donnell

Christina Tartera Donnell
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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MCNEES, WALLACE & NURICK LLC
100 PINE STREET
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HARRISBURG PA 17108-1166

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SEP 01 2005

OFFICE OF PETITIONS

In re Application of
GRYLLS et al.
Application No. 10/143,662
Filed: May 10, 2002
Attorney Docket No. 13DV-13246 (07783-0043)

DECISION
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 29, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Fee(s) Due, mailed April 26, 2005, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on July 27, 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 of $1400 and a publication fee of $300; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the issue and publication fee payments are accepted as having been unintentionally delayed.

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

The application matter is being forwarded to Office of Patent Publication.

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

Paper No. 9

Edwards & Angell, LLP
P.O. Box 55874
Boston, MA 02205

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OFFICE OF PETITIONS

In re Application of	:	
John B. Fenn	:	DECISION ON PETITION
Application No. 10/143,686	:	UNDER 37 CFR 1.137(b)
Filed: May 13, 2002	:	
Attorney Docket No. 49903.63468	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 20, 2005, to revive the above-identified application.

This application became abandoned for failure to reply timely to the Ex parte Quayle Action mailed August 27, 2003, which set a two (2) month shortened statutory period to reply. Accordingly, this application became abandoned on October 28, 2003. A Notice of Abandonment was mailed on April 14, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply, paid the petition fee, and made the proper statement of unintentional delay.

The petition is **granted.**

This application file is being forwarded to Technology Center Art Unit 3746.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PFIZER INC
150 EAST 42ND STREET
5TH FLOOR - STOP 49
NEW YORK, NY 10017-5612

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OFFICE OF PETITIONS

In re Application of:	:	
Benson et al.	:	
Application No. 10/143,723	:	DECISION ON
Filed: May 10, 2002	:	PETITION
Title of Invention:	:	
Attorney Docket Number: PC27201A	:	

This is a decision on the petition for revival of an application abandoned unintentionally under 37 CFR 1.137(b), filed January 13, 2006, to revive the above-identified application. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the nonfinal Office action, mailed January 13, 2005. 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). No reply having been received, the application became abandoned April 14, 2005. A Notice of Abandonment was mailed August 11, 2005.

With the instant petition, Applicant has filed an Amendment in response to the non-final Office action.

This application is being returned to Technology Center 1656 for processing of the Amendment in due course.

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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5TH FLOOR - STOP 49
NEW YORK, NY 10017-5612

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OFFICE OF PETITIONS

In re Application of	:	
Timothy E. Benson, et al.	:	
Application No. 10/143,723	:	ON PETITION
Filed: May 10, 2002	:	
Attorney Docket No. PC27201A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 21, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 4, 2006. A Notice of Abandonment was subsequently mailed on June 15, 2007. In response, on March 21, 2008, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 1656 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Commissioner for Patents
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Paper No.

MCDONNELL BOEHNEN HULBERT &
BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

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MAR 25 2009

OFFICE OF PETITIONS

In re Application of :
Benson et el. :
Application No. 10/143723 :
Filed: May 10, 2002 :
Title: CRYSTAL OF HUMAN BETA :
SECRETASE HAVING MONOCLINIC :
SPACE GROUP SYMMETRY C2 AND :
METHODS FOR CRYSTALLIZATION :
THEREOF :

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 31, 2008. Applicant requests that the determination of patent term adjustment be increased by 762 days to a total of one thousand four hundred twenty-seven (1,427) days. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b). (This is true even in this instance where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.703(b) calculation until the actual date of issuance of the patent has been determined. Accordingly, it is

still too soon to make a determination as to the correctness of any period of adjustment that will or will not be entered pursuant to § 1.703(b)).

Applicant is given TWO (2) MONTHS from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

It is acknowledged that applicant is correct that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —
>
> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is noted that a Request for Continued Examination (RCE) was filed in this application on March 21, 2008.

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

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

Telephone inquiries specific to this decision should be directed to Attorney Derek Woods at (571) 272-3232.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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BERGHOFF LLP
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CHICAGO IL 60606

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SEP 2 8 2009

OFFICE OF PETITIONS

In re Application of	:	
Benson et al.	:	
Patent Number: 7,524,668	:	
Issue Date: 04/28/2009	:	
Application No. 10/143723	:	ON REQUEST FOR
Filing or 371(c) Date: 05/10/2002	:	RECONSIDERATION OF
Title of Invention:	:	PATENT TERM ADJUSTMENT
CRYSTAL OF HUMAN BETA SECRETASE	:	
HAVING MONOCLINIC SPACE GROUP	:	
SYMMETRY C2 AND METHODS FOR	:	
CRYSTALLIZATION THEREOF	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b), filed June 25, 2009. Patentees submit that the correct patent term adjustment is 870 days, not 471 days as calculated by the Office. Patentees request this correction solely on the basis that the Office took in excess of three years to issue this patent. The request for reconsideration is properly treated under 37 CFR 1.705(d).

Patentees note that an initial Request for Reconsideration of Patent Term Adjustment was filed with the issue fee on October 31, 2008, and that a response to the Request was mailed March 25, 2009, holding in abeyance a decision on the Request until after patent issued. Patentees provide that the present Request updates the bases for the Request to reflect the delay in issuance of the patent following payment of the issue fee. Patentees also note a typographical error in the response mailed March 25, 2009 wherein the number of days of adjustment requested by applicants on October 31, 2008 was incorrectly stated as 1427 days rather than 805 days.

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

On April 28, 2009, the above-identified application matured into U.S. Patent No. 7,524,668 with a patent term adjustment of 471 days. This application for patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).
Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same calendar day or days." Patentees assert that the period of adjustment pursuant to 37 CFR 1.702(b) is 1,046 days based on the application having been filed

under 35 U.S.C. §111(a) on May 10, 2002, and a request for continued examination (RCE) having being filed on March 21, 2008, three years and 1,046 days later.

Thus, patentees assert entitlement to an adjustment of 870 days based on: § 1.702(a) delays of 692 days *plus* § 1.702(b) delays of 1,046 *less* 205 overlapping days *less* § 1.704 applicant delays of 663 days.

Under 37 CFR § 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR §1.702 reduced by the period of time equal to the period of time during which applicants failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR §1.704. In other words, the period of Office delay reduced by the period of applicant delay.

The instant application was filed May 10, 2002. A request for continued examination (RCE) was filed March 21, 2008. Thus, at the time of filing of the RCE, the application was pending three years and 1,046 days. The Office asserts that certain action was not taken within the specified time frame, and thus, the entry of period of adjustment that accrued prior to the filing of the RCE of 604 days is correct. At issue is whether patentees should accrue 1,046 days of patent term adjustment for the Office taking in excess of three years to issue the patent; over three year time having ceased accruing upon submission of the RCE on March 21, 2008, as well as 604 days for Office failure to take certain actions within specified time frames (or examination delay).

The Office contends that the period of adjustment of 604 days that had accrued at the time of filing of the RCE overlaps with the period of adjustment of 1,046 days of delay in issuance of the patent. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. The provisions of 35 U.S.C. 154(b)(2)(A) limit the adjustment of patent term, as follows:

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

Likewise, 37 CFR 1.703(f) provides that:

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

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). *See Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). *See also Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A),* 69 Fed. Reg. 34283 (June 21, 2004).

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

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3 year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy

> order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[1]

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

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, May 10, 2002, to the date that the RCE was filed on March 21, 2008. At the time of submission of the RCE on March 21, 2008, the application had been pending three years and 1,046 days, and 604 days of examination delay had accrued. However, at the time of submission of the RCE on March 21, 2008, the Office had not delayed 1,046 days and then also delayed an additional 604 days. Accordingly, 1,046 days of patent term adjustment (not 1,046 days and 604 days) was properly entered because the period of examination delay of 604 days overlaps with the period of delay of 1,046 days attributable to the delay in the issuance of the patent. Entry of both periods is not warranted. Subsequent to the filing of the RCE, additional adjustments totalling 88 days were accorded the application. Accordingly, at the time of issuance, the patent reflected an overall patent term adjustment of 471 days (pre-RCE adjustments of 1,046 days *plus* post-RCE adjustments totalling 88 days *less* applicant delay totalling 663 days).

In view thereof, no adjustment to the patent term will be made.

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

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods, at (571) 272-3232.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Timothy E. Benson	: DECISION ON REQUEST FOR
Patent Number	: 7524668	: RECALCULATION of PATENT
Issue Date	: 04/28/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/143,723	: OF WYETH
Filed	: 05/10/2002	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

PTO/SB/64a (08-03)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED FOR FAILURE TO NOTIFY THE OFFICE OF A FOREIGN OR INTERNATIONAL FILING (37 CFR 1.137(f))	Docket Number (Optional) A-01.22

First named inventor: Carlos E. Collazo

Application No.: 10/143,738 Art Unit: 3738

Filed: May 10, 2002 Examiner: Thomas Barrett

Title: Securing an Augment to a Prosthetic Implant Component

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX: (703) 308-6916

FAX RECEIVED
NOV 0 5 2003
PETITIONS OFFICE

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.

The above-identified application became abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to timely notify the Office of the filing of an application in a foreign country or under a multinational international treaty that requires publication of applications eighteen months after filing. The date of abandonment is the day after the expiration date of the forty-five (45) day period set in 35 U.S.C. 122(b)(2)(B)(iii).

PURSUANT TO 37 CFR 1.137(f), APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION UNDER 37 CFR 1.137(b)

1. Petition fee

☐ Small entity-fee $_____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☒ Other than small entity - fee $ 1,330. (37 CFR 1.17(m))

2. Notice of Foreign or International Filing (35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c))

Subsequent to the filing of the above-identified application, an application was filed in another country, or under a multinational international treaty (*e.g.*, filed under the Patent Cooperation Treaty), that requires publication of applications eighteen months after filing. The filing date of the subsequently-filed foreign or international application is 04-16-2003.

This collection of information is required by 37 CFR 1.137. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **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.

11/24/2003 AKELLEY 00000001 502221 10143738

01 FC:1453 1330.00 DA

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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT: The entire delay in filing the required notice of a foreign or international filing from the due date for the required notice until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.
[NOTE. The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

11-05-2003
Date

Signature

Telephone Number: (201) 488 8700

Arthur Jacob
Typed or printed name

25 East Salem Street
P.O. Box 686
Address

Hackensack, NJ 07602

Enclosures: [x] Fee Payment - authorization to charge Deposit Account No. 502221
[ ] 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.

[x] transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-6916.

11-05-2003
Date

Signature

Arthur Jacob
Type or printed name of person signing certificate

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. 6

ARTHUR JACOB
25 EAST SALEM STREET
PO BOX 686
HACKENSACK NJ 07602

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NOV 2 4 2003

OFFICE OF PETITIONS

In re Application of	:	
Carlos E. Collazo	:	
Application No. 10/143,738	:	ON PETITION
Filed: May 10, 2002	:	
Attorney Docket No. A-01.22	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), pursuant to 37 CFR 1.137(f), filed November 5, 2003.

The petition is **GRANTED**.

Petitioner states that the instant application is the subject of an international application filed on April 16, 2003. However, the US Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the international application.

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

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

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

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

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

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

The petition fee has been charged to Deposit Account No. 50-2221, as authorized.

The previous Request and Certification under 35 USC 122(b)(2)(B)(i) has been rescinded. A corrected filing receipt which sets forth a projected publication date of February 12, 2004 accompanies this decision.

The application file is being forwarded to Technology Center 3700, Group Art Unit 3738, 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: corrected filing receipt (2 pages)

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3-21-05

TO SPE OF : ART UNIT 1636

SUBJECT : Request for Certificate of Correction on Patent No.: 6,812218

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

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

Magdalene Talley

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

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

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

Comments:

Reviewed. OK.

Remy Yucel

REMY YUCEL, PH.D
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

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MCGINN INTELLECTUAL PROPERTY
LAW GROUP, PLLC
8321 OLD COURTHOUSE ROAD
SUITE 200
VIENNA, VA 22182-3817

In re Application of

Makoto Sasaki

Application No. 10/143,755

Filed: May 14, 2002

Attorney Docket No. 00USFP465-M.K.DIV

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), first filed November 2, 2004, and again on August 7, 2006.

The petition is **granted**.

This application was held abandoned November 27, 2003, after no reply was received to the non-final Office action mailed August 26, 2003. The notice set forth a shortened statutory period of reply of three months from its mailing date. No response was received within the allowable period and the application became abandoned on November 27, 2003. A Notice of Abandonment was mailed November 2, 2004, and on August 7, 2006. The instant petition was filed on July 31, 2006. Petitioner maintains that the notice was never received and provides a copy of the relevant docketing calendar as proof of the same.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded to Technology Center 2800, GAU 2815 for further processing that may include remailing the notice and resetting of the period for reply.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Robert K. Roth
Miller Canfield Paddock and Stone
150 West Jefferson, Suite 2500
Detroit, MI 48226

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OFFICE OF PETITIONS

In re Application of
T. Koros, et al.
Application No.: 10/143,776
Filed: May 14, 2002
Attorney Docket No:

ON PETITION

This is in response to the petition under 37 CFR 1.137(b) filed March 24, 2004.

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

This application became abandoned for failure to respond in a timely manner to the final Office action mailed April 9, 2003. The final Office action set a shortened statutory period for reply of three-months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). No response was received within the allowed period, and the application became abandoned on July 10, 2003. A Notice of Abandonment was mailed on March 3, 2004.

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

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

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

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

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

The instant petition does not satisfy the requirements of item (1) above.

Examiner Michael Ferguson has review the amendment filed with the instant petition and determined that it does not place the application in condition for allowance. The petition cannot be granted because a proper response to the last Office action was not filed. Either an amendment that places the application in condition for allowance, a Request for Continued Examination, or a Notice of Appeal must accompany any renewed petition filed.

The "Power of Attorney by Assignee (Revocation of Prior Prowers) and Change of Correspondence Address" filed March 24, 2004, is noted and made of record.

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

By mail:

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

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

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Robert K. Roth
Miller Canfield Paddock and Stone
150 West Jefferson, Suite 2500
Detroit, MI 48226

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OFFICE OF PETITIONS

In re Application of
T. Koros, et al.
Application No.: 10/143,776
Filed: May 14, 2002
Attorney Docket No:

ON PETITION

This is in response to the renewed petition under 37 CFR 1.137(b) filed August 31, 2004.

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

This application became abandoned for failure to respond in a timely manner to the final Office action mailed April 9, 2003. The final Office action set a shortened statutory period for reply of three-months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). No response was received within the allowed period, and the application became abandoned on July 10, 2003. A Notice of Abandonment was mailed on March 3, 2004. A petition under 37 CFR 1.137(b) was filed on March 24, 2004, and dismissed by a decision mailed July 2, 2004.

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

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

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

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

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

The instant petition does not satisfy the requirements of item (1) above.

Examiner Michael Ferguson has reviewed the amendment filed with the instant renewed petition and determined that it does not place the application in condition for allowance. The petition cannot be granted because a proper response to the last Office action was not filed. Either an amendment that places the application in condition for allowance, a Request for Continued Examination, or a Notice of Appeal must accompany any renewed petition filed.

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

By mail:

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

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

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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NIXON & VANDERHYE, P.C.
1100 N. GLEBE ROAD
8TH FLOOR
ARLINGTON, VA 22201

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In re Application of	:	
Comair, et al	:	
Application No. 10/143,812	:	ON PETITION
Filed: May 14, 2002	:	
Attorney Docket No. 723-1286	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 1, 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 September 30, 2003. A three month extension of time having been obtained pursuant to the provisions of 37 CFR 1.136(a), the date of abandonment of this application is March 31, 2004.

The file is being forwarded to Technology Center 2800 for review of the amendment submitted June 1, 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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ARENT FOX PLLC
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON DC 20036

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OFFICE OF PETITIONS

In re Application of	:	
Wada et al	:	
Application Number: 10/143,819	:	
Patent: 6,846,212		
Attorney Docket Number: 1073848-00236	:	
Filing Date: May 14, 2002	:	
Issue Date: January 25, 2005	:	DECISION ON PETITION
	:	

This is a decision on the petition to correct the name of the assignee under 37 CFR 1.183 filed on April 8, 2005. The petition is properly treated under 37 CFR 3.81 (b)[1] to correct the name of the assignees 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).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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PATENT ADMINISTRATOR
KATTEN MUCHIN ZAVIS ROSENMAN
525 WEST MONROE STREET, SUITE 1600
CHICAGO, ILLINOIS 60661-3693

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OFFICE OF PETITIONS

In re Application of	:
Edward L. Stahl	:
Application No. 10/143,841	: DECISION ON PETITION
Filed: May 14, 2002	: UNDER 37 CFR 1.313(a)
Attorney Docket No. 213202.00407	:

This is a decision on the petition under 37 CFR 1.313(a), filed July 21, 2004, to withdraw the above-identified application from issue "for further action at the initiative of the Office, so that an Information Disclosure Statement submitted prior to payment of the Issue Fee may be considered." Alternatively, petitioner petitions under 37 CFR 1.181(a)(1), seeking reversal of the Examiner in refusing to consider a reference provided with an Information Disclosure.

The petition under 37 CFR 1.313(a) is **dismissed** as inappropriate.

A review of the file record discloses that the issue fee was paid on July 14, 2004.

Applicable Statutes and Regulations

The issuance and withdrawal from issue of patents are governed by statute and regulation.

35 USC § 131 states:

> The Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor.

35 USC § 151 states in pertinent part:

> 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.

Upon payment of this sum the patent shall issue, but if payment is not timely made, the application shall be regarded as abandoned.

37 CFR 1.313(a) states, in-part:

> Applications may be withdrawn from issue for further action at the initiative of the Office or upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary.

37 CFR 1.313(b) states:

> Once the issue fee has been paid, the Office will not withdraw the application from issue at its own initiative for any reason except:
>
> (1) A mistake on the part of the Office;
> (2) A violation of § 1.56 or illegality in the application;
> (3) Unpatentability of one or more claims; or
> (4) For interference.

37 CFR 1.313(c) states:

> Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:
>
> (1) Unpatentability of one of more claims, which petition must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;
> (2) Consideration of a request for continued examination pursuant to § 1.114; or
> (3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

37 CFR 1.313(d) states:

(d) A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials before the date of issue. **Withdrawal of an application from issue after payment of the issue fee may not be effective to avoid publication of application information** (emphasis added).

Opinion

37 CFR 1.313(a) applies to those applications where the issue fee has not yet been paid. Therefore, 37 CFR 1.313(a) is immaterial to this application since, as noted above, the issue fee was paid on July 14, 2004.

37 CFR 1.313(b) applies to those situations where the Office, **at its own initiative**, may withdraw an application from issue, but only in those situations which meet the conditions of 37 CFR 1.313(b). See Sampson v. Dann, 466 F.Supp. 965, 973-74, 201 USPQ 15, 22 (D.D.C. 1978). Therefore, 37 CFR 1.313(b) is inapplicable here since the rule does not provide for withdrawal from issue at the request of an applicant.

The proper avenue of relief for withdrawing an application from issue after payment of the issue fee is by way of a petition under 37 CFR 1.313(c)(1)-(3). Therefore, this application can only be withdrawn from issue at the request of the applicant under one of the provisions set forth in 37 CFR 1.313(c)(1)-(3). The instant petition does not currently meet any of those conditions for withdrawal from issue pursuant to 37 CFR 1.313(c). In view thereof, the application will not be withdrawn from issue. If petitioner desires to withdraw this application from issue, an appropriate petition under 37 CFR 1.313(c)(2) must be submitted.

Petitioner has submitted with the petition a copy of a previously filed RCE (dated January 14, 2004). Since the RCE is not signed and was further not intended as a filing pursuant to the provisions of 37 CFR 1.114, the $770 filing fee assessed thereto is improper and will be refunded to petitioner's deposit account in due course.

Further, a review of the file record discloses that an unsigned copy of a previously filed RCE (again dated January 14, 2004) was received on May 18, 2004. As it too appears that this RCE copy was not submitted for the purpose of reopening prosecution pursuant to 37 CFR 1.114, the $770 filing fee charged thereto was improper and will be refunded to petitioner's deposit account in due course.

This matter is being referred to Technology Center AU 3632 for appropriate action on the alternate petition under 37 CFR 1.181(a)(1).

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

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

By hand: Customer Window located at:

U.S. Patent and Trademark Office
220 20th Street S
Customer Window, Mail Stop Petitions
Crystal Plaza Two Lobby, Room 1B03
Arlington, VA 22202

By fax: (703) 305-4257
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (703) 305-8680.

Frances Hicks

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

UNITED STATES 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 ADMINISTRATOR
KATTEN MUCHIN ZAVIS ROSENMAN
525 WEST MONROE STREET, SUITE 1600
CHICAGO, IL 60661-3693

COPY MAILED

OCT 0 7 2004

OFFICE OF PETITIONS

In re Application of	:	
Edward L. Stahl	:	
Application No. 10/143,841	:	DECISION GRANTING PETITION
Filed: May 14, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 21302.00407	:	

This is a decision on the petition, filed September 29, 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 14, 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 3632 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently 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
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P.O. Box 1450
Alexandria, VA 22313-1450
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June 17, 2008

Christian A. Nichole
2055 Gateway Place
Suite 550
San Jose, CA 95110-1089

Patent No.: 7,350,194 B1
Application No.: 10/143,890
Inventor(s): David M. Alpern
Issued: March 25, 2008
Title: TECHNIQUES FOR DEBUGGING COMPUTER PROGRAMS INVOLVING MULTIPLE COMPUTING MACHINES

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-0025 ATTN: Office of Petitions

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

Virginia Tolbert
For Mary Diggs, Supervisor
Decisions & Certificate of Correction Branch
(703) 305-8309 or (703) **308-9390 ext 113**

vt

C1-152

RECEIVED

MAR 1 0 2002

Young & Thompson

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 20

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MAR 1 4 2002

OFFICE OF PETITIONS

J1036 U.S. PTO
10/143904
05/14/02

YOUNG & THOMPSON
745 SOUTH 23RD STREET 2ND FLOOR
ARLINGTON, VA 22202

In re Application of
Kruwinus et al.
Application No. 09/159,097
Filed: September 23, 1998
Attorney Docket No. S84-40002-P

COPY

DECISION ON PETITION

DOCKETED

SP May 14, 2002

This is a decision on the petition under 37 CFR §1.137(b), filed January 24, 2002, to revive the above-identified application.

This petition is hereby **Dismissed**.

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

This above-identified application became abandoned for failure to file a reply within the meaning of 37 CFR §1.113 to the final Office Action of October 24, 2000. The final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on January 25, 2001. A Notice of Abandonment was mailed on May 24, 2001.

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

The instant petition lacks item (1) the required reply. The proposed reply required for consideration of a petition to revive after a final Office Action 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, the filing of a continuing application or a Request for Continued Examination (RCE). See MPEP 711.03(c)(III)(A)(2) and 37

CFR §1.114. Although Petitioner submitted an amendment with the instant petition, the examiner has determined the amendment does not place the application in condition for allowance. Accordingly, this application cannot be revived.

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

By mail: Commissioner for Patents
Box DAC
WASHINGTON, D.C. 20231

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

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Telephone inquiries concerning this matter should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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YOUNG & THOMPSON
745 SOUTH 23RD ST
2ND FLOOR
ARLINGTON VA 22202

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NOV 17 2004

OFFICE OF PETITIONS

In re
Kruwinus, et al.
Application No. 10/143,904
Filed: May 14, 2002
Attorney Docket No. 4301-1012-1

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed October 27, 2004.

The fee deficiency submission under 37 CFR 1.28 is hereby **accepted**.

Receipt of the $420, representing the deficiency between the small entity and large entity application filing fees, is acknowledged.

The change of status to a large entity has been entered and made of record.

The file is being forwarded to Group Art Unit 2829 to await for applicants' reply to the final Office action mailed September 22, 2004.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mailed AUG 19 2002

UR
Paper NO. 56

In re Application of
Thomas H. Pang et al.
Serial Number: 10/143,907
Filed: May 14, 2002
For: PHOTOCURABLE COMPOSITIONS WITH ALICYCLIC EPOXIDES OF HIGH MONOMER PURITY

DECISION ON PETITION UNDER M.P.E.P. 708.02, II

This is a decision on the Petition to Make Special because of Actual Infringement (37 C.F.R. 1.102 and MPEP 708.02) filed July 30, 2002, along with the requisite fee (paid), in the above-noted application. The petition with accompanying statement, meet the requirements of Section 708.02 (II) of the MPEP.

If the examiner finds any interfering application for the same subject matter, the examiner should consider such application simultaneously with this case and should state in the official letter of such application that the examiner is taking it out of its turn because of a possible interference.

Should an appeal be taken in this case or should this case become involved in an interference, consideration of the appeal and the interference will be expedited by Patent and Trademark Office Officials concerned, contingent likewise upon diligent prosecution by applicant.

After allowance, this case will be given priority for printing. See MPEP 1309.

The petition is GRANTED.

Richard V. Fisher

Richard V. Fisher, Director
Technology Center 1700
Chemical and Materials Engineering

LYON & LYON LLP
633 West Fifth Street, Suite 4700
Los Angeles, CA 90071

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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CRAIG MILLER
64 VIA UMBROSO
SAN CLEMENTE, CA 91765

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JUL 27 2005

OFFICE OF PETITIONS

In re Application of :
Kay Miyakawa Liu :
Application No. 10/143,915 : ON PETITION
Filed: May 13, 2002 :
Attorney Docket No. N/A :

This is a decision on the petition under 37 C.F.R. 1.137(b), filed June 6, 2005, to revive the above identified application.

The petition is dismissed.

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

This application became abandoned for failure to timely reply within three months to the final Office action mailed July 1, 2004. Accordingly, this application became abandoned on October 2, 2004. A Notice of Abandonment was mailed on April 5, 2005.

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application 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 (1) above.

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 July 1, 2004. Accordingly, in a nonprovisional application abandoned for failure to reply to a final action, the reply required for consideration of a petition to revive must be one of the following:

-a Notice of Appeal and appeal fee;

-an amendment under 37 CFR 1.116 that cancels all the rejected claims or otherwise prima facie places the application in condition for allowance;

- the filing of an RCE (accompanied by a submission that meets the reply requirements of 37 CFR 1.111 and the requisite fee) under 37 CFR 1.114 for utility or plant applications filed on or after June 8, 1995; or

- the filing of a continuing application under 37 CFR 1.53(b) (or a CPA under 37 CFR 1.53(d) if the application is a design application).

The amendment, filed June 6, 2005, has been reviewed by the Examiner, and it does not place the application in condition for allowance. As such, the required reply has not been submitted and the petition must be dismissed.

A courtesy copy of the PTOL-303 Advisory Action is attached to the instant decision. However, please note, this courtesy copy of the advisory form PTOL 303 merely serves as an advisory notice to the Office of Petitions regarding the decision of the examiner on the amendment after final rejection.

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

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

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

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

Telephone inquiries should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
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
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CRAIG MILLER
64 VIA UMBROSO
SAN CLEMENTE, CA 91765

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OCT 19 2005

OFFICE OF PETITIONS

In re Application of :
Liu, et al. :
Application No. 10/143,915 :
Filed: May 13, 2002 :
Attorney Docket No. N/A :

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed September 29, 2005 (Certificate of Mailing date: September 27, 2005), to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply within three months to the final Office action mailed July 1, 2004. Accordingly, this application became abandoned on October 2, 2004. A Notice of Abandonment was mailed on April 5, 2005.

Please note, the power of attorney submitted September 29, 2005 has not been entered. A review of the application file indicates that Craig Miller is an applicant and not an attorney of record. As such, the power of attorney must be signed by all of the applicants.

Accordingly, petitioner herein is not empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to 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 file is being forwarded to Technology Center 1600 for review of the RCE and amendment submitted September 29, 2005.

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

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

cc.
JORDAN A. SIGALE, ESQ.
SONNENSCHEIN NATH AND ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION
SEARS TOWER
CHICAGO, IL 60606

UNITED STATES PATENT AND TRADEMARK OFFICE

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MASON, MASON & ALBRIGHT
2306 South Eads Street
Arlington, VA 22202

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APR 28 2005

OFFICE OF PETITIONS

In re Application of	:	
Dick M. Oort, et. al.	:	
Application No. 10/143,988	:	ON PETITION
Filed: May 14, 2002	:	
Attorney Docket No. 8553/155A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 17, 2005, to revive the above-identified application.

The Office acknowledges receipt of a Request for Continued Examination (RCE) under 37 CFR 1.114, and an amendment filed with the instant petition.

The petition is **GRANTED**.

The application file is being forwarded to Technology Center Art Unit 2855, for processing the Request for Continued Examination, and for review of the amendment filed March 17, 2005.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Arlington, VA 22202

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FEB 0 3 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Dick M. Oort, et. al.	:	
Application No. 10/143,988	:	
Filed: May 14, 2002	:	
Attorney Docket No. 8553/155A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 12, 2005, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) due mailed May 8, 2005.

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

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

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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HOWREY LLP - East
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DR, SUITE 200
FALLS CHURCH VA 22042-2924

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SEP 2 2 2009

OFFICE OF PETITIONS

In re Patent No. **7,028,559**	:	
Issue Date: April 18, 2006	:	
Application No. 10/143,988	:	NOTICE UNDER 37 CFR 1.28(C)
Filed: May 14, 2002	:	
Attorney Docket No. **8553/155A**	:	

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

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

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

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

Inquiries related to this communication should be directed to Monica A. Graves at (571) 272-7253.

/Monica A. Graves/
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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MASON MASON & ALBRIGHT
2306 SOUTH EADS STREET
ARLINGTON, VA 22202

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SEP 2 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Dick M. OORT, et al.	:	
Application No. 10/143,988	:	DECISION ON REQUEST FOR
Filed: May 14, 2002	:	REVOCATION OF POWER
Attorney Docket No. **8553/155A**	:	OF ATTORNEY

This is a decision on the Request to Revoke the attorney or agent of record under 37 C.F.R. § 1.36(a), filed April 15, 2009.

The request is APPROVED.

A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceeding of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant under § 3.71(b). Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth § 1.17(h). For the assignee to take action a proper statement under § 3.73(b) is required.

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

The application issued into patent number 7,028,559 on April 18, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

cc: **HOWREY LLP - East**
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DR, SUITE 200
FALLS CHURCH VA 22042-2924

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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HOWREY LLP - East
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DR, SUITE 200
FALLS CHURCH VA 22042-2924

MAILED

JUN 22 2010

OFFICE OF PETITIONS

In re Patent of Oort et al. :
Patent No. 7,028,559 :
Issued: April 18, 2006 :
Application No. 10/143,988 :
Filed: May 14, 2002 :
Attorney Docket No. 8553/155A

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed January 19, 2010.

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) 272-3230.

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
P.O. Box 1450
Alexandria, VA 22313-1450
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INGRASSIA FISHER & LORENZ PC
7150 E CAMELBACK STE 325
SCOTTSDALE AZ 85251

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FEB 09 2007

OFFICE OF PETITIONS

In re Application of	:	
Anand, et al.	:	
Application No. 10/144,004	:	ON PETITION
Filed: May 13, 2002	:	
Attorney Docket No. 4224-2US1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 30, 2006, 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 April 20, 2006. This Office action set a shortened statutory period for reply of three (3) months. No extensions of time were obtained. Accordingly, no reply having been received, the application became abandoned on July 21, 2006. The mailing of this decision precedes the mailing of a Notice of Abandonment.

With the instant petition, applicant paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of an Amendment.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $510 extension of time fee submitted with the petition on November 30, 2006, was subsequent to the maximum period obtainable for reply (November 20, 2006), this fee has been refunded to petitioner's Deposit Account 50-2091.

The matter is being forwarded to Group Art Unit 2131 for consideration of the Amendment filed November 30, 2006.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

SHUMAKER & SIEFFERT, P. A.
1625 RADIO DRIVE
SUITE 300
WOODBURY MN 55125

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AUG 22 2007

OFFICE OF PETITIONS

In re Patent No. 7,020,157	:	
Koch et al.	:	
Issue Date: March 28, 2006	:	
Application No. 10/144,008	:	DECISION ON PETITION
Filed: May 9, 2002	:	
Atty Docket No. 1034-001US01	:	

This is a notice regarding your letter entitled SUBMISSION OF DEFICIENCY PAYMENT UNDER 37 CFR 1.28, notifying the Office of loss of entitlement to small entity status and requesting acceptance of a fee deficiency submission as provided for in 37 CFR 1.28. This statement is made by an attorney of record.

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.

The instant request included an itemization and payment of the deficiency in fees since loss of entitlement to small entity status.

It is noted that the fee deficiency charged has been corrected to reflect the filing fees due for an application filed before December 8, 2004.

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

Payment of the deficiency has been treated under § 1.27(g)(2) as a notification of a loss of entitlement to small entity status.

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

Commissioner for Patents
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P.O. Box 1450
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FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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MAY 12 2004

OFFICE OF PETITIONS

In re Application of
Fernando J. R. Do Couto et al.
Application No. 10/144,047
Filed: May 14, 2002
Attorney Docket No. 042418-0102

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition filed January 20, 2004, under 37 CFR 1.47(a).

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventors, Roberto L. Ceriani and Jerry A. Peterson, refused to join in the filing of the above-identified reissue application after having been sent a copy of the application papers. Specifically, the statements of Liane Peterson, Attorney of Record, and Karen Fay, legal secretary for Liane Peterson, establishes that there are three named inventors on Patent No. 6,281,335 issued August 28, 2001, Fernando J.R. Do Couto, Roberto L. Ceriani and Jerry A. Peterson. The statements establish that the above identified application is a reissue of Patent No. 6,281,335 and that Mr. Do Couto has signed a 37 CFR 1.75 declaration but that Mr. Ceriani and Mr. Peterson were each sent copies of the present reissue application materials, but that they both expressly refused to execute the declarations and thus are refusing to cooperate with the filing of instant reissue application as filed.

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 1642 for examination on the merits and for reconsideration of the petition under 37 CFR 1.182 dismissed June 20, 2003.

Telephone inquiries concerning this matter should 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

ROBERTO L. CERIANI
210 MISSISSSIPPI STREET
SAN FRANCISCO, CA 94107

JERRY A. PETERSON
210 MISSISSSIPPI STREET
SAN FRANCISCO, CA 94107

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MAY 1 2 2004
OFFICE OF PETITIONS

In re Application of
Fernando J.R. Do Couto et al.
Application No. 10/144,047
Filed: May 14, 2002
Title of Invention: HYBRIDOMA AND ANTI-KC-4
HUMANIZED MONOCLONAL ANTIBODY

Dear Mr. Ceriani and Mr. Peterson:

You are named as joint inventors 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 joint inventors.

As named inventors 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 Petitions Attorney at (703) 305-4497. 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).

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:

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

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FOLEY & LARDNER
WASHINGTON HARBOUR
3000 K STREET NW SUITE 500
WASHINGTON DC 20007

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MAY 19 2004

OFFICE OF PETITIONS

In re Reissue Application No. 10/144,047	:
Filed: May 14, 2002	:
Original Patent No 6,281,335	: DECISION ON PETITION
Issue Date: August 28, 2001	:
Original Application No. 08/134,346	:
Filed: October 8, 1993	:
Inventor: de Couto et al.	:

This is a decision on the renewed petition under 37 CFR 1.182 filed January 28, 2004, wherein petitioners request they be permitted to elect to proceed under the provisions of 35 U.S.C. § 103(b).

The petition is **granted.**

The decision of June 20, 2003, on the request to elect to proceed under the provisions of 35 U.S.C. § 103(b) noted that while the provisions of 35 U.S. § 103(b) had been satisfied, since the assignee had filed this reissue application, 35 U.S.C. § 251 operated to preclude the very broadening herein sought. The decision noted that such could be remedied by having the inventors sign the reissue declaration presented under 37 CFR 1.175. While the papers filed January 28, 2004, included, *inter alia,* a reissue declaration under 37 CFR 1.175 signed by one of the named inventors, there was also a showing and petition under 37 CFR 1.47(a) seeking acceptance of this reissue application in the absence of the participation of all the named inventors. As this reissue application was accepted and accorded Rule 47 status by way of the decision of May 12, 2004, there is no remaining impediment to favorably considering the petition under 37 CFR 1.182.

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

Brian Hearn

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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WWW.USPTO.GOV

JUN 20 2003

Bernhard D. Saxe
FOLEY & LARDNER
3000 K STREET, N.W SUITE 500
WASHINGTON DC 20007-5109

In re Application of	:	
Fernando J. R. Do Couto, et al	:	DECISION
Application No. 10/144,047	:	DISMISSING
Filed May 14, 2002	:	PETITION
Attorney's Docket No. 042418-0102	:	

This is a decision on the petition under 37 CFR 1.182, filed May 14, 2002, with the application, and electing to proceed pursuant to 35 U.S.C. 103(b). The present petition is before the Group Director of Examining Group 1600 for decision.

The petition fee of $130.00 for the petition under 37 CFR 1.182 has been charged to counsel's deposit account 19-0741 as authorized in the penultimate paragraph of the Reissue Patent Application Transmittal Sheet.

The petition is dismissed for the reason discussed below.

DECISION

Through the present petition, applicant elects to proceed under 35 U.S.C. 103(b) with respect to claims 14 - 21, which were submitted by way of a preliminary amendment filed May 14, 2002 as part of the present reissue application papers. The petition requests acceptance of the election to proceed under 35 U.S.C. 103(b) with respect to claims 14 - 21.

For a grantable petition electing to proceed pursuant to 35 U.S.C. 103(b), the requirements of 35 U.S.C. 103(b), as set forth in MPEP § 706.02(n), must be satisfied. The present application and petition are found to **satisfy the provisions of 35 U.S.C. 103(b)**. The methods set forth in claims 14 - 21 are methods of using a product produced by a process which genetically alters or otherwise induces an organism to express an exogenous nucleotide sequence.

There is, however, one outstanding matter that must be addressed in order to complete the petition:

At page 2 of the original declaration under 37 CFR 1.175, note is taken by the declarant that the addition of process claims via the present reissue application will result in a broadening of the claimed invention (*Ex parte Wikdahl*, 10 USPQ2d 1546 (Bd. Pat. App. & Inter. 1989)). Pursuant to 35 U.S.C. 251, "application for reissue may be made and sworn to by the assignee of the entire interest if the application does not seek to enlarge the scope of the claims of the original patent." In the present instance, a review of the record reveals that the declaration was signed by the assignee, and a declaration signed by all of the inventors was not submitted. Accordingly, the application is incomplete as to the declaration under 37 CFR 1.175. A reissue application can be granted a filing date without a proper oath or declaration; however, an oath or declaration signed by the inventors, accompanied by the surcharge of $130.00 (37 CFR 1.16(e)), is required to complete the application. See 37 CFR 1.53(f). Accordingly, the petition is dismissed.

The election to proceed under 35 U.S.C. 103(b) will be approved when the petition is completed, and the claims of the biotechnological process submitted with the petition shall then be considered nonobvious within the meaning of 35 U.S.C. 103. This would not, however, bar rejections not based upon prior art, should same be deemed appropriate by the examiner.

CONCLUSION

1. The petition under 37 CFR 1.182 is dismissed.

2. A declaration under 37 CFR 1.175 signed by the inventors, accompanied by the surcharge of $130.00 pursuant to 37 CFR 1.16(e), is required to complete the petition and the application.

3. Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.182."

4. Any request for reconsideration of this decision is to be directed to:

   ATTN: Technology Center 1600
   Commissioner for Patents
   P.O. Box 1450
   Alexandria, VA 22313-1450

5. The file for this application will be stored in Technology Center 1600 to await petitioner's renewed petition in response to this decision, or the expiration of the time for filing a renewed petition.

6. Telephone inquiries related to this decision should be directed to Kenneth Schor, Senior Legal Advisor, Office of Patent Legal Administration, at 703-308-6710.

7. Telephone inquiries related to the examination of the application should be directed to Examiner Larry Helms at 703-306-5879.

Jasemine C. Chambers

Jasemine Chambers, Group Director
Patent Examining Group 1600
Biotechnology and Organic Chemistry

June 12, 2003
C:\KIVA\KENBIO\10144047.WPD

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OFFICE OF PETITIONS

FOLEY AND LARDNER LLP
SUITE 500
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WASHINGTON DC 20007

In re Application of	:	
DoCouto, et al.	:	
Application No. 10/144,047	:	DECISION
Filed: 14 May, 2002	:	
Attorney Docket No. 042418-0117	:	

This is a decision on the petition filed on 23 July, 2007, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181, and, in the alternative, one under 37 C.F.R. §1.137(b) to revive the application as abandoned due to unintentional delay.

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

The petition as considered under 37 C.F.R. §1.181 is **GRANTED**; the petition under 37 C.F.R. §1.137(b) is **DISMISSED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 30 January, 2007, with reply due on or before 30 April, 2007;
- the application went abandoned after midnight 30 April, 2007;
- it does not appear that the Office mailed the Notice of Abandonment before the instant petition was filed;

- on 23 July, 2007, Petitioner filed the instant petition with, *inter alia*:

  — an averment (with documentary and record support) that a reply was filed on 2 April, 2007, in the form of a request for continued examination (RCE) with fee and, as the submission under 37 C.F.R. §1.114, material to correct an earlier erroneous/incomplete submission as to chain of title and authorization of the assignee, however, the Office mailed a Notice of Improper RCE on 17 July, 2007, and the period for payment of Fees Due had expired; and

  —alternatively, a statement of unintentional delay accompanying the petition and fee for relief under 37 C.F.R. §1.137(b) and a reply in the form of a request that the Examiner withdraw the Notice of Allowance and the corrective information described above;

- the Office mailed the Notice of Abandonment on 21 August, 2007.

The provisions of 37 C.F.R. §1.114 provide in pertinent part:

> ***
>
> (c) A submission as used in this section 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. If reply to an Office action under 35 U.S.C. 132 is outstanding, the submission must meet the reply requirements of §1.111. (Emphasis supplied.)
>
> ***

Further, the provisions of 37 C.F.R. §1.172 provide, in pertinent part:

> ***
>
> (a) A reissue oath must be signed and sworn to or declaration made by the inventor or inventors except as otherwise provided (see §§ 1.42, 1.43, 1.47), and must be accompanied by the written consent of all assignees, if any, owning an undivided interest in the patent, but a reissue oath may be made and sworn to or declaration made by the assignee of the entire interest if the application does not seek to enlarge the scope of the claims of the original patent. All assignees consenting to the reissue must establish their ownership interest in the patent by filing in the reissue application a submission in accordance with the provisions of § 3.73(b) of this chapter. (Emphasis supplied.)
>
> ***

A submission, thus, is not limited in its nature under the rule, but, rather, is directed toward advancement of prosecution. The materials provided in the submission herein appear to have been directed to exactly such end.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

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

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of

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

See specifically, the regulations at 37 C.F.R. §10.18.

[3] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[4] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5]

And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[8] (See, also, the commentary at MPEP §711.03(c)(I)(A) and (B).)

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

Petitioner appears to have satisfied the showing requirements herein.

As to Allegations
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a proper reply, a statement/showing of unintentional delay, and–where appropriate—a terminal disclaimer and fee.

It appears that this issue is moot.

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[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[7] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

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

CONCLUSION

Petitioner appears to have satisfied the burdens herein, and the petition as considered under 37 C.F.R. §1.181 is **granted** and the 21 August, 2007, Notice of Abandonment is **vacated**; the petition under 37 C.F.R. §1.137(b) is **dismissed as moot** and the fee refunded.

The instant application is released to Technology Center 1600 for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[9]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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[9] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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555 BAILEY AVENUE, J46/G4
SAN JOSE, CA 95141

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SEP 0 2 2005

OFFICE OF PETITIONS

In re Application of :
Ying Chen et al :
Application No. 10/144,058 :
Filed: May 10, 2002 :
Attorney Docket No. SVL920010083US1

ON PETITION

This is a decision on the petition, filed September 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]

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

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

This matter is being referred to Technology Center AU 2165 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

cc:
Konrad Raynes & Victor, LLP
315 South Beverly Drive, Ste. 210
Beverly Hills, CA 90212

---

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

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OFFICE OF PETITIONS

INTERNATIONAL BUSINESS MACHINES CORP
IP LAW
555 BAILEY AVENUE, J46/G4
SAN JOSE, CA 95141

In re Application of :
Ying Chen et al :
Application No. 10/144,058 : ON PETITION
Filed: May 10, 2002 :
Attorney Docket No. SVL920010083US1

This is a decision on the petition filed, June 28, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 3, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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

This matter is being referred to Technology Center AU 2165 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: David Victor
Konrad Raynes & Victor, LLP
315 South Beverly Drive, Ste. 210
Beverly Hills, CA 90212

---

[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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SAN JOSE, CA 95141

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OFFICE OF PETITIONS

In re Application of	:	
Ying Chen et al	:	
Application No. 10/144,058	:	DECISION GRANTING PETITION
Filed: May 10, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. SVL920010083US1	:	

This is a decision on the petition, filed January 24, 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 November 14, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2165 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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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TECHNOLOGY CENTER 2100

In re Application of: Masri, et al.
Application No. 10/144,073
Attorney Docket No. 002998.P020
Filed: May 10, 2002
For: SCALABLE LOW BANDWIDTH MULTICAST HANDLING IN MIXED CORE SYSTEMS

SUA SPONTE
WITHDRAWAL OF HOLDING OF ABANDONMENT *under 37 CFR 1.181*

A review of the application reveals that a Notice of Abandonment was mailed to the Applicant on November 28, 2005. The notice incorrectly indicated that the instant application was being held abandoned for failure to respond to the Restriction Requirement mailed on September 29, 2004. In actuality, the Restriction Requirement was mailed on September 29, 2005. Applicant timely filed a transmittal letter, an extension of time for three (3) months, and an election with remarks bearing a certificate of mailing of January 17, 2006, wherein the transmittal, election with remarks and extension of time are currently located in the file.

The amount indicated by Applicant authorized by check for the extension of time for three (3) months necessary to timely respond to the Restriction Requirement is indicated to be $1020.00. The Office records indicate payment in the amount of $1020.00 for the extension of time on January 19, 2006.

In view of these facts, the abandonment of the application was clearly in error and has been **VACATED**. The Office regrets any inconvenience this may have caused.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to **WITHDRAW the holding of abandonment**, process the election response filed January 17, 2006, and to forward the application to the Examiner for prompt action on the merits.

Inquiries to this decision may be directed to Special Programs Examiner Brian Johnson at (571) 272-3595.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security

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LINTHICUM, MD 21090

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OFFICE OF PETITIONS

In re Application of	:
Charles W. Haggans et al	:
Application No. 10/144,082	: DECISION ON PETITION
Filed: May 13, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 450	:

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 9, 2005, requesting withdrawal of the application from issue after payment of the issue fee.

The petition is **DISMISSED**.

Petitioner seeks withdrawal of this application from issue because "an inventor is believed to have been omitted from the inventive entity of the subject patent application." Petitioner has indicated that, upon withdrawal of this application from issue, a petition to correct inventorship pursuant to the provisions of 37 CFR 1.48(a) will be submitted. As the submission requirement, a paper entitled "Notice of Intention to Correct Inventorship" was submitted with the petition, along with a request for continued examination (RCE) pursuant to the provisions of 37 CFR 1.114.

37 CFR 1.313(c) provides that:

> Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:
> (1) Unpatentability of one of more claims, which petition must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;
> (2) Consideration of a submission pursuant to 37 CFR 1.114; or
> (3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

See Changes to Application Examination and Provisional Application Practice, Interim Rule, 65 Fed. Reg. 14865, 14873 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office 47, 54 (Apr. 11, 2000).

Upon payment of the issue fee, an application will not be withdrawn from issue upon petition except for the reasons enumerated in 37 CFR 1.313(c). The petition is not accompanied by the submission requirement of 37 CFR 1.114. A notice of intent to file a petition to correct inventorship is not a submission as contemplated by 37 CFR

1.114. Accordingly, as the petition does not meet the conditions for withdrawal from issue pursuant to the provisions of 37 CFR 1.313(c)(2), this application cannot be withdrawn from issue at this time.

Petitioner is reminded that a petition under 37 CFR 1.313(c) will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials before the date of issue. Therefore, if petitioner submits a renewed petition under 37 CFR 1.313(c)(2), it must be received and granted by an appropriate official before the issue date.

The power of attorney submitted with the petition is not acceptable since it fails to comply with the provisions of 37 CFR 3.73(b). Petitioner may use the form on the USPTO Website for meeting the requirements of 37 CFR 3.73(b). A courtesy copy of this decision is being mailed to petitioner. However, until such time as an acceptable power of attorney is received, all future correspondence will continue with the address currently of record.

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

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

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

By fax: **(571) 273-0025 for Office of Petitions**

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

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Robert N. Blackmon
Merek Blackmon & Voorhees LLC
673 S. Washington Street
Alexandria, VA 22314

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ROBERT M. BLACKMON
MEREK BLACKMON & VOORHEES LLC
673 S. WASHINGTON STREET
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of	:	
Charles W. Haggans et al	:	
Application No. 10/144,082	:	DECISION ON PETITIONS
Filed: May 13, 2002	:	UNDER 37 CFR 1.48(a)
Attorney Docket No. 450	:	AND 37 CFR 1.183

This is a decision on the petitions, filed November 16, 2005, which are being treated as a petition under (1) 37 CFR 1.48(a) to correct the inventorship to add Vipul Bhatnagar as an inventor in this application; (2) 37 CFR 1.183 to waive the provisions of 37 CFR 1.48(a)(3) which requires an oath or declaration executed by the actual inventor or inventors as required by 37 CFR 1.63 and 1.64; and (3) 37 CFR 1.183 to waive the requirements of 37 CFR 1.64(a) which requires a supplemental oath or declaration executed by all the named inventors.

The petitions are **DISMISSED**.

MPEP § 603 provides that, "[w]hen an inventor who executed the original declaration is refusing or cannot be located to execute a required supplemental declaration, it is possible that the requirement may be suspended or waived in accordance with 37 CFR 1.183." As the inventor who executed the originally submitted declaration has not signed the supplemental declaration, it is appropriate to also treat the petition as one requesting waiver of the provisions of 37 CFR 1.64(a).

Accordingly, the petition is being treated as a petition under 37 CFR 1.183 to waive the provisions of 37 CFR 1.64(a) which requires a supplemental declaration executed by all the named inventors. The $400 fee therefor will be charged to petitioner's deposit account. *Note* MPEP § 201.03B.

37 CFR 1.183 provides that, in an extraordinary situation, when justice requires, any requirement of the regulations which is not a requirement of the statutes may be suspended or waived. The petition is devoid of any reason as to why previously signing inventor Mahir Nayfeh has not signed the supplemental oath or declaration. Therefore, until petitioner has shown that Mahir Nayfeh was given an opportunity to reexecute the oath or declaration or that inventor Nayfeh could not be located, after diligent efforts, to reexecute the oath or declaration, the petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.64(a) must be dismissed.

A decision on the petitions under 37 CFR 1.48(a) and 37 CFR 1.183 to waive the requirements of 37 CFR 1.48(a)(3) will be rendered upon satisfaction of the petition under 37 CFR 1.183 waiving the provisions of 37 CFR 1.64(a).

The declarations of the assignee and Vipul Bhatnagar, the inventor now sought to be added in this application, state that "[t]he inventorship error of failing to include Vipul Bhatnagar as an inventor of the above identified application and divisional application 10/986,817 filed 11/15/2004, occurred without any deceptive intention on the part of Vipul Bhatnagar." If petitioner wishes to correct the inventorship in Application No. 10/986,817, then a petition(s) must also be filed in that application. *Note* 37 CFR 1.4(c).

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

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

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

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

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

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

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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ROBERT N. BLACKMON
MEREK BLACKMON & VOORHEES LLC
673 S. WASHINGTON STREET
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of
Charles W. Haggans et al
Application No. 10/144,082
Filed: May 13, 2002
Attorney Docket No. 10.0450

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed November 16, 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 22, 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 will be retained in the Office of Petitions for action in due course on the concurrently filed petitions under 37 CFR 1.183 and 37 CFR 1.48(a).

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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ROBERT M. BLACKMON
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ALEXANDRIA, VA 22314

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MAR 07 2006

OFFICE OF PETITIONS

In re Application of	:
Charles W. Haggans et al	:
Application No. 10/144,082	: DECISION ON PETITIONS
Filed: May 13, 2002	: UNDER 37 CFR 1.48(a)
Attorney Docket No. 450	: AND 37 CFR 1.183

This is a decision on the renewed petition, filed January 13, 2006, requesting reconsideration of the decision mailed November 22, 2005, which dismissed the petitions under (1) 37 CFR 1.48(a) to correct the inventorship to add Vipul Bhatnagar as an inventor in this application; (2) 37 CFR 1.183 to waive the provisions of 37 CFR 1.48(a)(3) which requires an oath or declaration executed by the actual inventor or inventors as required by 37 CFR 1.63 and 1.64; and (3) 37 CFR 1.183 to waive the requirements of 37 CFR 1.64(a) which requires a supplemental oath or declaration executed by all the named inventors.

The petitions under 37 CFR 1.183 to waive the provisions of 37 CFR 1.48(a)(3) and 1.64(a) are **DISMISSED as moot** in view of the submission with the renewed petition of an executed declaration in compliance with 37 CFR 1.63(c) of the previous non-signing inventor.

The petition under 37 CFR 1.48(a) is **GRANTED**.

A petition under 37 CFR 1.48(a) requires:

> (1) A request to correct the inventorship that sets forth the desired inventorship change;
> (2) A statement from each person being added 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;
> (3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;
> (4) The processing fee set forth in § 1.17(i); and
> (5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

In view of the papers filed, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and,

accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed by the addition of Vipul Bhatnagar as an inventor.

A corrected filing receipt which includes Vipul Bhatnagar as an inventor accompanies this decision on petition.

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

Brian Hearn

Brian Hearn
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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ORACLE INTERNATIONAL CORPORATION
c/o VISTA IP LAW GROUP LLP
1885 LUNDY AVENUE
SUITE 108
San Jose, CA 95131

Mail Date: 04/21/2010

Applicant	: Sreenivas Gollapudi	: DECISION ON REQUEST FOR
Patent Number	: 7610351	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/144,083	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/10/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1014** 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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OFFICE OF PETITIONS

CATERPILLAR/FINNEGAN, HENDERSON, L.L.P.
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

In re Application of
Jason K. Bloms, et al.
Application No. 10/144,131
Filed: May 14, 2002
Attorney Docket No. 8350.1733-00

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed February 13, 2006.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before December 27, 2005. A Notice of Abandonment was mailed on February 21, 2006

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the requisite issue/publication fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

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

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Paper No. 6

Walter L. Brim
1500 Putter Ct.
Titusville FL 32780

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JUL 15 2004
OFFICE OF PETITIONS

In re Application of :
Walter L. Brim :
Application No. 10/144,135 :
Filed: May 11, 2002 :
For: Spray Fire Hose :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed June 15, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned on February 8, 2004, for failure to timely reply to the nonfinal Office Action mailed on November 7, 2003, which set a three-month shortened statutory period for reply. Petitioner did not obtain any extensions of time to reply. The present petition precedes the mailing of the Notice of Abandonment.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed; In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to

prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

This petition lacks item (3) above.

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to be "unavoidable".[1] Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or 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]

---

[1] 35 U.S.C. § 133.

[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,

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[3] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[4]

With regard to requirement (3):

Petitioner asserts that due to the loss of his job, he was unable to pay for the drawings and make the necessary changes that were required. A showing of "unavoidable" delay based upon financial difficulty must establish that petitioner lacked the financial resources to continue prosecution of the above-identified application. Such a showing must be supported by a **complete and thorough** showing of the responsible person's financial condition during the entire period between February 8, 2004 and June 15, 2004, including income, expenses, assets, credit and obligations, which made the delay in the submission of the required reply unavoidable. Petitioner should provide copies of all documents or records that would confirm the financial difficulty. Furthermore, petitioner should provide further information as to the date he lost his job.

Accordingly, the showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a).

Because petitioner did not provide any showing that the delay was unavoidable within the meaning of 35 USC 151 and 37 CFR 1.137(a), the petition must be **dismissed**. In any renewed petition under 37 CFR 1.137(a), petitioner must submit a thorough explanation, including any documentary evidence, to support a showing of unavoidable delay.

---

a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

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

[4]Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

Alternate Venue:

Petitioner may wish to consider filing a petition under amended 37 CFR 1.137(b). 37 CFR 1.137(b) provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

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

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

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

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

Pursuant to MPEP 711.03(c):

> Petitions under 37 CFR 1.137(b) are less burdensome (statement(s) rather than a showing accompanied by documentary evidence) to file and are evaluated under the less stringent "unintentional delay" standard. Applicants determining whether to file a petition to revive an application under 37 CFR 1.137(b) or 1.137(a) should take the following into account:
>
> While the Office reserves the authority to require further information concerning the cause of abandonment and delay in filing a petition to revive, the Office relies upon the applicant's duty of candor and good faith and accepts 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" without requiring further information in the vast majority of petitions under 37 CFR 1.137(b). This is because the applicant is

obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when a practitioner provides this statement to the Office. In addition, providing an inappropriate statement in a petition under 37 CFR 1.137(b) to revive an abandoned application may have an adverse effect when attempting to enforce any patent resulting from the application. See 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). Even if the Office requires further information in a petition under 37 CFR 1.137(b), such petition is still significantly less burdensome to prepare and prosecute than a petition under 37 CFR 1.137(a). The Office is almost always satisfied as to whether "the entire delay …was unintentional" on the basis of statement(s) by the applicant or representative explaining the cause of the delay (accompanied at most by copies of correspondence relevant to the period of delay). A showing of unavoidable delay will (in addition to the above) require: (1) evidence concerning the procedures in place that should have avoided the error resulting in the delay; (2) evidence concerning the training and experience of the persons responsible for the error; and (3) copies of any applicable docketing records to show that the error was in fact the cause of the delay. See MPEP §711.03(c)(III)(C)(2). In addition, a petition under 37 CFR 1.137(a) must establish that the delay was unavoidable, and not just that it was unintentional. Thus, many petitions originally filed under 37 CFR 1.137(a) end up being granted under 37 CFR 1.137(b) when the applicant realizes that sufficient evidence concerning the delay is too difficult to obtain or the cause of delay simply does not amount to "unavoidable delay" within the meaning of 37 CFR 1.137(a).

Since the requirements of 37 CFR 1.137(a) are more exacting than the corresponding requirements of 37 CFR 1.137(b), a petition under 37 CFR 1.137(a) is significantly less likely to be grantable as filed than is a petition under 37 CFR 1.137(b). The Office usually must render a number of interlocutory decisions dismissing a petition under 37 CFR 1.137(a) and requesting additional evidence until either the applicant provides a satisfactory showing of unavoidable

delay (in which case the petition can be granted) or the Office concludes that the applicant cannot provide a satisfactory showing of unavoidable delay (in which case the petition must be denied). Thus, the period between when an applicant first files a petition to revive and the Office renders a decision granting (or denying) that petition will, more often than not, be much longer if the petition is under 37 CFR 1.137(a) than it would have been if the petition were under 37 CFR 1.137(b).

Should petitioner decide to file a petition under 37 CFR 1.137(b), the petition fee due would be $665.00 (small entity).

A copy of the form for a petition to revive for unintentional delay under 37 CFR 1.137(b) is enclosed for petitioner's convenience.

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

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

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

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petition
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosures: PTO/SB/64
Privacy Act of 1974 (P.L. 93-579)

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Paper No.

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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JUL 08 2008
OFFICE OF PETITIONS

In re Application of Suyue Qian et al. Application No. 10/144,165 Filed: May 10, 2002 Attorney Docket Number: LFS0236US Title: MULTILAYER REAGENT TEST STRIPS THAT INCLUDE AT LEAST ONE FLUID FLOW CONTROL LAYER AND METHODS FOR USING THE SAME	DECISION ON PETITION PURSUANT TO 37 C.F.R. § 1.137(B)

This is a decision on the petition filed February 4, 2008, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

The petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

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 August 10, 2006, which set a shortened statutory period for reply of three months. An after-final amendment was received on February 12, 2007, along with a petition for a three-month extension of time (which contains a certificate of mailing dated February 9, 2007). An advisory action was mailed on March 5, 2007. No further extensions of time under the provisions of 37 C.F.R § 1.136(a) were available, and no further responses were received. Accordingly, the above-identified application became abandoned on February 10, 2007.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted, *inter alia*, the petition fee, a Request for Continued Examination (RCE) along with the associated fee, and the proper statement of unintentional delay.

The first three requirements of Rule 1.137(b) have been met. The fourth requirement is not applicable, as a terminal disclaimer is not required.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of

this decision, so that the submission under 37 C.F.R. § 1.114 - the amendment received on February 12, 2007 - can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[1]. All other inquiries concerning the status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: JOHNSON & JOHNSON
INTERNATIONAL PATENT LAW DIVISION
ATTN: PHILIP JOHNSON
P.O. BOX 1222
NEW BRUNSWICK, NJ 08903

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

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CAESAR, RIVISE, BERNSTEIN,
COHEN & POKOTILOW, LTD.
11TH FLOOR, SEVEN PENN CENTER
1635 MARKET STREET
PHILADELPHIA PA 19103-2212

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APR 09 2007

OFFICE OF PETITIONS

In re Application of	:	
Rolf Lorenzen	:	DECISION ON PETITION TO
Application No. 10/144,183	:	WITHDRAW HOLDING OF
Filed: 13 May, 2002	:	ABANDONMENT
Attorney Docket No. M1211/20003	:	

This is a decision on the petition filed on 4 January, 2007, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely file a reply to the non-final Office action mailed on 11 April, 2006, which set a three (3) month shortened statutory period for reply. Notice of Abandonment was mailed on 14 December, 2006.

Petitioner asserts that the non-final Office action mailed on 11 April, 2006, was never received.

In the absence of any irregularity in the mailing of the non-final Office action, there is a strong presumption that the non-final Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the non-final Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office 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 showing

outlined above may not be sufficient if there are circumstances that point to a conclusion that the non-final Office action may have been lost after receipt rather than a conclusion that the non-final Office action was lost in the mail.

A review of the record indicates that the Office action was properly mailed to the practitioner of record at the correspondence address of record at the time of mailing. Thus, there was no irregularity in mailing the Office action on the part of the United States Patent and Trademark Office.

In support of the petition, the petitioner has submitted a statement from the practitioner, David M. Tener, stating that the Office communication was not received by the practicioner, 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 for the above-identified application where the non-received Office action would have been entered had it been received and docketed are attached.

The petitioner has made a sufficient showing of nonreceipt of the Office action. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED.**

The application file is being referred to Technology Center 2600 technical support staff for remailing of the non-final Office action. The period for reply will be reset from the mailing date thereof.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of	:
Zeling Cai et al	:
Application No. 10/144,188	: DECISION GRANTING PETITION
Filed: May 13, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. PRI-0010(ORT-1627)	:

This is a decision on the petition, filed February 5, 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 October 9, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1644 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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

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OFFICE OF PETITIONS

In re Application of
Zeling Cai, et. al.
Application No. 10/144,188
Filed: May 13, 2002
Attorney Docket No. JJPR-0010

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 9, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the Final Office Action of February 8, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is May 9, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

The Change of Correspondence Address filed on December 9, 2008 has been accepted and made of record.

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

This application is being referred to Technology Center AU 1644 for appropriate action by the Examiner in the normal course of business on the reply received.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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INGRASSIA FISHER & LORENZ, P.C.
7150 E. CAMELBACK, STE. 325
SCOTTSDALE AZ 85251

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OFFICE OF PETITIONS

In re Application of	:	
Satish N. Anand	:	
Application No. 10/144,195	:	DECISION ON PETITION
Filed: May 13, 2002	:	
Attorney Docket No. 4224-11US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 27, 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 July 21, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed April 21, 2006 . Accordingly, the date of abandonment of this application is July 22, 2006 . The Notice of Abandonment was mailed August 25, 2006.

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

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be

submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

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

Liana Walsh
Petitions Examiner
Office of Petitions

cc: **Richard Takahashi**
P.O. Box 12105
Tempe, AZ 85824-0036

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& BIANCO P.L.
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551 NORTHWEST 77TH STREET, SUITE 111
BOCA RATON FL 33487

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OFFICE OF PETITIONS

In re Application of	:	
Rebecca Berrigan, et al.	:	
Application No. 10/144,196	:	DECISION ON PETITION
Filed: May 13, 2002	:	
Attorney Docket No. 645-A01-001	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 14, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, May 4, 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 August 5, 2005.

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

It is noted that the petitioner submitted $1500 as the petition fee under 37 CFR 1.17(m) for a large entity status and the petition fee has been accepted. The petitioner is hereby notified that the application is not large entity. The petitioner should request a refund of $750 if this request was made in error. The petitioner should also file a petition for loss of entitlement to small entity status to officially change the status of the application.

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

in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

Telephone inquiries concerning this decision should be directed to April Wise at (571) 272-1642.

This application is being referred to Technology Center AU 2157 for appropriate action by the Examiner in the normal course of business on the reply received.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Darin J. Gibby
Townsend and Townsend and Crew, LLP
Two Embarcadero Center
8th Floor
San Francisco, CA 94111-3834

cc: Darin J. Gibby
Townsend and Townsend and Crew, LLP
1200 17th Street
Suite 2700
Denver, Colorado 80202

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7150 E. CAMELBACK
SUITE. 325
SCOTTSDALE, AZ 85251

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OFFICE OF PETITIONS

In re Application of	:	
Satish N. Anand	:	
Application No. 10/144,197	:	DECISION ON PETITION
Filed: May 13, 2002	:	
Attorney Docket No. 4224-11US2	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 27, 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 August 4, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed May 4, 2006. Accordingly, the date of abandonment of this application is August 5, 2006.

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

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 April Wise at (571) 272-1642.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: RICHARD TAKAHASHI
PO BOX 12105
TEMPE, AZ 85283

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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FAEGRE & BENSON LLP
PATENT DOCKETING - INTELLECTUAL PROPERTY (32469)
2200 WELLS FARGO CENTER
90 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402-3901

Mail Date: 04/20/2010

Applicant	: Aaron V. Kaplan	: DECISION ON REQUEST FOR
Patent Number	: 7610104	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/144,205	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/10/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **956** 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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DCM

In re Application of Gary Wentworth, et al. Serial Number: 10/144,229 Filed: May 10, 2002 For: ADHESION PROMOTER FOR CORD-REINFORCED RUBBER AND METAL OR POLYMER SUBSTRATE/RUBBER COMPOSITES	:	PETITION UNDER MPEP 708.02 VIII

This is in response to the Petition to Make Special filed December 1, 2003, requesting that the above-identified application be granted Special Status under section 708.02 VIII of the MPEP and 37 CFR 1.102(d). The fee set forth in 37 CFR 1.17(h) has been paid.

The criteria set forth in section 708.02 VIII of the MPEP and 37 CRF 1.102(d) have been met.

Accordingly the petition is **GRANTED.**

Marian C. Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

MARSHALL, GERSTEIN & BORUN LLP
6300 SEARS TOWER
233 S. WACKER DRIVE
CHICAGO IL 60606

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SUITE 301
SAN DIEGO, CA 92127

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NOV 1 8 2005

OFFICE OF PETITIONS

In re Application of :
Sahraoui, et al. :
Application No. 10/144,241 :
Filed: May 10, 2002 :
Attorney Docket No. 1034US :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 21, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the non-final Office action mailed July 29, 2004. Accordingly, this application became abandoned on October 30, 2004.

Please note, there is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted.

Additionally, please note, the application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03.

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 file is being forwarded to Technology Center 2100 for review of the amendment filed September 21, 2005, *in due course*.

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

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

cc.
WILLIAM J. KOLEGRAFF
3119 TURNBERRY WAY
JAMUL, CA 91935

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1100 13th STREET, N.W.
SUITE 1200
WASHINGTON DC 20005-4051

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OFFICE OF PETITIONS

In re Application of	:	
TROSSEN et al.	:	
Application No. 10/144,279	:	ON APPLICATION FOR
Filed: May 10, 2002	:	PATENT TERM ADJUSTMENT
Atty Docket No. 007243.00036	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705 filed October 14, 2008, which is being treated under the provisions of 37 CFR 1.705(b). Applicants request that the determination of patent term adjustment be corrected from 373 days to at least 827 days 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 three 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 three years. See 37 CFR 1.703(b). (This is true even in this instance where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.703(b) calculation until the actual date of issuance of the patent has been determined. Accordingly, it is still too soon to make a determination as to the correctness of any period of adjustment that will or will not be entered pursuant to § 1.703(b)).

Applicant is given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within three years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

It is acknowledged that applicant is correct that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —
>
> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is noted that a Request for Continued Examination (RCE) was filed in this application on August 7, 2006.

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

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

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney, Christina Tartera Donnell, at (571) 272-3211.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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NORMAN S. CONNORS
6730 SPRING HILL RD.
BELGRADE, MT 59714

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OFFICE OF PETITIONS

In re Application of	:	
Connors, et al.	:	
Application No. 10/143,311	:	ON PETITION
Filed: May 13, 2002	:	
Attorney Docket No. N/A	:	

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**.

This application became abandoned for failure to timely file corrected drawings on or before June 28, 2004 as required by the Notice of Allowability mailed March 26, 2004. Accordingly, this application became abandoned on June 29, 2004. A Notice of Abandonment was mailed on August 10, 2004.

This application is being forwarded to Publishing Division for review of the drawings filed October 4, 2004.

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

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

Copied from 10143311 on 01/14/2005

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BELGRADE, MT 59714

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JAN 18 2005

OFFICE OF PETITIONS

In re Application of :
Connors, et al. :
Application No. 10/144,311 : ON PETITION
Filed: May 13, 2002 :
Attorney Docket No. N/A :

This is a decision on the petition under 37 CFR 1.137(b), filed October 4, 2004, to revive the above-identified application. The decision on petition mailed November 30, 2004 is hereby vacated and replaced with the instant corrected decision.

The petition is **GRANTED**.

This application became abandoned for failure to timely file corrected drawings on or before June 28, 2004 as required by the Notice of Allowability mailed March 26, 2004. Accordingly, this application became abandoned on June 29, 2004. A Notice of Abandonment was mailed on August 10, 2004.

This application is being forwarded to Publishing Division for review of the drawings filed October 4, 2004.

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

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

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WARNER-LAMBERT COMPANY
2800 PLYMOUTH RD
ANN ARBOR MI 48105

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FEB 09 2005

OFFICE OF PETITIONS

In re Application of	:	
Baragi et al.	:	
Application No. 10/144,315	:	ON PETITION
Filed: May 9, 2002	:	
Attorney Docket No. PC18256	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 19, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply timely to the Notice Regarding Drawings mailed May 10, 2004, which set a period of two months to respond. Accordingly, this application became abandoned on July 11, 2004. A Notice of Abandonment was mailed on September 1, 2004.

The petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply, paid the petition fee, and made the proper statement of unintentional delay.

Telephone inquiries concerning the issuance of the application into a patent should be directed to the Office of Patent Publication, Customer Service at (703) 305-8497.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JJGJR.: 06-06

Paper No: __

KATHLEEN R. TERRY
13840 JOHNSON STREET NE
HAM LAKE MN 55304

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JUN 22 2006

OFFICE OF PETITIONS

In re Application of :
Seifert, et al. :
Application No. 10/144,318 :
Filed: 13 May, 2002 :
Attorney Docket No. (None) :

ON PETITION

This is a decision on a petition filed on 9 February, 2006, under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition under 37 C.F.R. §1.137(b) is **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(b)."

(2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record indicates:

- Petitioner failed to reply timely and properly to the final Office action mailed on 9 September, 2004, with reply absent extension of time on or before 9 December, 2004;

- the instant application went abandoned by operation of law after midnight 9 December, 2004;

- the Office mailed a Notice of Abandonment on 25 March, 2005;

- on 9 February, 2006, Petitioner filed the instant petition with fee, and, *inter alia*, made the reply in the form of a request for continued examination with fee and submission (in the form of an amendment) under 37 C.F.R. §1.114, but the second page of the petition was not present[1] such that neither the statement of unintentional delay nor the signature of Petitioner was present–thus, Petitioner appears not to have satisfied the "statement" regulatory requirements under 37 C.F.R. §1.137(b), and, in light of the period of abandonment the statement cannot remain outstanding;

- out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

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[1] Calls were placed to Petitioner on 20 June, 2006, in this regard, but at the time of this writing no reply had been received.

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

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

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[5] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[6] And the Petitioner must be diligent in attending to the matter.[7] Failure to do so does not

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

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

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

(1) Holding certain facts to have been established;

(2) Returning papers;

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

(4) Imposing a monetary sanction;

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

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

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

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

[3] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[4] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[5] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[6] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[7] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

Allegations as to
Unintentional Delay

The requirements for relief under the provisions of 37 C.F.R. §1.137(b) are: petition, fee, reply, showing of unintentional delay, and–where appropriate–a terminal disclaimer and fee

It appears that Petitioner has not satisfied the "statement" requirements of the regulation.

CONCLUSION

The petition as considered under 37 C.F.R. §1.137(b) is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:[9]

By mail: Commissioner for Patents[10]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

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

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[8] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[9] On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. The number (571) 273-8300 is be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

[10] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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www.uspto.gov

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Mail Date: 04/21/2010

Applicant	: Robert C. Rolnik	: DECISION ON REQUEST FOR
Patent Number	: 7574237	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/144,321	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/06/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1662** 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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INGRASSIA FISHER & LORENZ, P.C.
7150 E. CAMELBACK, STE. 325
SCOTTSDALE AZ 85251

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OFFICE OF PETITIONS

In re Application of	:	
Anand et al.	:	
Application No. 10/144,332	:	ON PETITION
Filed: May 13, 2002	:	
Attorney Docket No. 4224-2US2	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 30, 2006, to revive the above-identified application.

The petition is **GRANTED.**

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

The Notice of Appeal filed November 30, 2006, has been entered and made of record. Accordingly, the 2-month period for filing the appeal brief accompanied by the fee required by law, runs from the date of this decision.

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 $510.00 extension of time fee submitted with the petition on November 30, 2006, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

This matter is being referred to Technology Center 2100 for further processing.

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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DAVIDSON BERQUIST JACKSON & GOWDEY LLP
4300 WILSON BLVD., 7TH FLOOR
ARLINGTON VA 22203

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DEC 0 7 2007

OFFICE OF PETITIONS

In re Application of	:	
Anand et al.	:	
Application No. 10/144,332	:	DECISION ON PETITION
Filed: May 13, 2002	:	
Attorney Docket No. 2551-0028	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 7, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.[2]

The instant petition lacks item(s) (1). Effective September 29, 2007, the issue fee was increased from $1400.00 to $1440.00. Petitioner only submitted $1400.00. Accordingly, an additional $40.00 is required for revival.

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

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

[2] See MPEP 711.03(c)(III)(C) and (D).

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Window located at: U.S. Patent and Trademark Office Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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4300 WILSON BLVD., 7TH FLOOR
ARLINGTON VA 22203

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OFFICE OF PETITIONS

In re Application of	:	
Anand et al.	:	
Application No. 10/144,332	:	DECISION ON PETITION
Filed: May 13, 2002	:	
Attorney Docket No. 2551-0028	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed December 26, 2007, to revive the above-identified application.

The petition is **GRANTED**.

Petitioner has now submitted the $40.00 issue fee deficiency.

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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SEARS TOWER, SUITE 6300
233 S. WACKER DRIVE
CHICAGO IL 60606-6357

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APR 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Alberto J. Sabucedo et al	:	
Application No. 10/144,346	:	DECISION GRANTING PETITION
Filed: May 10, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 30465/38467/US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 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 an RCE and a previously filed 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 11, 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 1641.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KONRAD RAYNES & VICTOR, LLP
ATTN: IBM54
315 SOUTH BEVERLY DRIVE, SUITE 210
BEVERLY HILLS, CA 90212

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MAR 1 0 2008

OFFICE OF PETITIONS

In re Application of :
Christian Andersch et al :
Application No. 10/144,347 : ON PETITION
Filed: May 10, 2002 :
Attorney Docket No. SVL920010106US1

This is a decision on the petition, filed March 6, 2008 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 8, 2008 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2162 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

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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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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www.uspto.gov

MARTINE PENILLA & GENCARELLA, LLP
710 LAKEWAY DRIVE
SUITE 200
SUNNYVALE, CA 94085

Mail Date: 04/21/2010

Applicant	: Greg Maturi	: DECISION ON REQUEST FOR
Patent Number	: 7606248	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/144,387	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/10/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1030** 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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DILWORTH & BARRESE, LLP
333 EARLE OVINGTON BLVD.
SUITE 702
UNIONDALE NY 11553

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SEP 26 2007

OFFICE OF PETITIONS

In re Application of	:	
Kang, et al.	:	
Application No. 10/144,399	:	DECISION ON PETITION
Filed: May 13, 2002	:	
Dkt. No.: 678-849 (P10064)	:	

This is a decision on the petition under 37 CFR 1.181, filed August 30, 2007, to withdraw the holding of abandonment.

The application became abandoned July 5, 2006 for failure to timely submit a properly reply to the final Office action mailed April 4, 2006. The final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed November 21, 2006.

Petitioners argue that the Office communication was not received and further indicates that the Office communication was returned to the Office. Petitioners do not allege non-receipt of the Notice of Abandonment mailed November 21, 2006. The instant petition has been filed more than nine months after the mailing of the final rejection.

In accordance with 37 CFR 1.181(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.

In view thereof, the petition is **DISMISSED AS UNTIMELY**.

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 1.181." This is not a final agency decision.

Any renewed petition should address the delay in timely seeking withdrawal of the holding of abandonment or petitioners may wish

to consider submitting a petition under the provisions of 37 CFR 1.137(b). *See, generally*, MPEP 711.03(c).

Further correspondence with respect to this matter should be addressed as follows:

By mail: **Mail Stop Petition**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By 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

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OFFICE OF PETITIONS

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UNIONDALE NY 11553

In re Application of
Kang, et al.
Application No. 10/144,399
Filed: May 13, 2002
Dkt. No.: 678-849 (P10064)

DECISION ON PETITION

This is a decision on the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181 and the petition under 37 CFR 1.137(b) to withdraw the holding of abandonment, filed February 13, 2008.

The application was held abandoned July 5, 2006 for failure to timely submit a properly reply to the final Office action mailed April 4, 2006. The final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed November 21, 2006. The petition under 37 CFR 1.181 was filed August 30, 2007 and dismissed as untimely on September 26, 2007.

DECISION UNDER 37 CFR 1.181

Petitioners argue that the final Office action mailed April 4, 2006 was not received and that the Office communication was returned to the Office.

A review of the record reveals that the final Office action mailed April 4, 2007 was returned to the USPTO as undeliverable on April 11, 2007. There is no indication in the record that effort was made to re-mail the Office action in accordance with MPEP 707.13 wherein it states:

> "Office actions are sometimes returned to the Office because the United States Postal Service has not been able to deliver them. Upon receipt of the returned Office action, the Technology Center (TC) technical support staff will check the application file record to ensure that the Office action was mailed to the correct correspondence address. If the Office action was not mailed to the correct correspondence address,

> it should be stamped "remailed" with the remailing date and mailed to the correct correspondence address. The period running against the application begins with the date of remailing. If the Office action was mailed to the correct correspondence address and it was addressed to an attorney or agent, a letter may be written to the inventor or assignee informing him or her of the returned action. The period running against the application begins with the date of remailing. *Ex parte Gourtoff*, 1924 C.D. 153, 329 O.G. 536 (Comm'r Pat. 1924)."

Therefore, in view of the evidence presented, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

DECISION UNDER 37 CFR 1.137(b)

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).

In view of the withdrawal of the holding of abandonment, the petition under 37 CFR 1.137(b) is **DISMISSED AS MOOT**.

Petitioners may request a refund of the previously submitted petition fee of $1,540.00 by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund.

This application is being forwarded Group Art Unit 2611 for remailing of the final Office. The time period for reply will be reset in the newly mailed Office action.[1]

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[1] It is noted that the Petition to Revive included an RCE as the reply. It does not appear that the RCE includes a proper submission, an IDS having been submitted after final rejection. *See*, MPEP 706.07(h). It is unclear if petitioners have had the benefit of reviewing the final Office action prior to submission of the RCE. Accordingly, this application is being directed to the Technology Center for re-mailing of the final Office action.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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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JJGJR.: 02-06

Paper No: __

MOTOROLA INC
600 NORTH US HIGHWAY 45
ROOM AS437
LIBERTYVILLE IL 60048-5343

COPY MAILED

FEB 13 2006

OFFICE OF PETITIONS

In re Application of :
Lenchik, et al. :
Application No. 10/144,406 :
Filing Date: 11 May, 2002 :
Attorney Docket No.: CS90050RL :

DECISION

This is a decision on the petition filed on 30 January, 2006, alleging unintentional delay under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition under 37 C.F.R.§1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 4 May, 2005, with reply due absent extension of time on or before 4 August, 2005;
- the instant application went abandoned after midnight 4 August, 2005;
- the Office mailed a Notice of Abandonment on 21 December, 2005;
- with the instant petition and fee, filed on 30 January, 2006, Petitioner has filed a reply in the form of an amendment and made the statement of unintentional delay.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

As to the Allegations of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a

---

[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[3] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee if the application was filed before 8 June, 1995.

Petitioner has satisfied the requirements under the regulation.

CONCLUSION

The petition under 37 C.F.R. §1.137(b) hereby is **granted**.

The instant application is released to Technology Center 2600 for further processing in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 5

LAHIVE & COCKFIELD
28 STATE STREET
BOSTON, MA 02109

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AUG 1 3 2002

OFFICE OF PETITIONS

In re Application of	:	
Ruth Gimeno et al	:	DECISION GRANTING
Application No. 10/144,433	:	PETITION
Filed: May 9, 2002	:	
Attorney Docket No. MNI-226	:	

This is a decision on the petition under 37 CFR 1.10(c) filed July 9, 2002, requesting that the above-identified application be accorded a filing date of May 9, 2002 rather than the presently accorded filing date of May 13, 2002.

Applicants allege that the application was deposited in "Express Mail" service with the U.S. Postal Service, on May 9, 2002. In support, applicants provided, inter alia, a copy of the Express Mail label, receipt no. EL916823389US, showing a Date-In of May 9, 2002. The same Express Mail receipt number appears on the copy of the original transmittal letter submitted with the present petition. Applicants request that the application be accorded a filing date of May 9, 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 May 9, 2002.

The petition is granted. The $130.00 petition fee is being credited to counsel's deposit account.

The application is being returned to the Office of Initial Patent Examination to await applicants' response to the Notice mailed June 10, 2002, and for correction of the filing date to May 9, 2002.

Telephone inquires specific to this matter should be directed to Wan Laymon at (703) 306-5685.

Brian Hearn

Brian Hearn
Special Projects Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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BOSTON, MA 02109

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AUG 1 3 2002

OFFICE OF PETITIONS

In re Application of	:	
Ruth Gimeno et al	:	DECISION GRANTING
Application No. 10/144,433	:	PETITION
Filed: May 9, 2002	:	
Attorney Docket No. MNI-226	:	

This is a decision on the petition under 37 CFR 1.10(c) filed July 9, 2002, requesting that the above-identified application be accorded a filing date of May 9, 2002 rather than the presently accorded filing date of May 13, 2002.

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Telephone inquires specific to this matter should be directed to Wan Laymon at (703) 306-5685.

Brian Hearn
Special Projects Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

In re Application of	:	
Ruth Gimeno et al	:	DECISION GRANTING
Application No. 10/144,433	:	PETITION
Filed: May 9, 2002	:	
Attorney Docket No. MNI-226	:	

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The petition is granted. The $130.00 petition fee is being credited to counsel's deposit account.

The application is being returned to the Office of Initial Patent Examination to await applicants' response to the Notice mailed June 10, 2002, and for correction of the filing date to May 9, 2002.

Telephone inquires specific to this matter should be directed to Wan Laymon at (703) 306-5685.

Brian Hearn
Special Projects Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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NOV 18 2004

Paper No. 110104

ZITO tlp
Suite 203
26005 Ridge Rd.
Damascus, MD 20872

In re Application of:	:	
Barbosa	:	
Serial No.: 10/144,434	:	DECISION ON REQUEST TO WITHDRAW
Filed: May 10, 2002	:	FROM RECORD
Attorney Docket No.: **WB-01**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed July 30, 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 Joseph J. Zito, on behalf of himself and all the attorneys/agents of record. The request is **APPROVED**.

There are no attorneys/agents of record at this time.

All future communications from the Office will be directed Nicola L. Zagarolo, 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: Nicola L. Zagarolo
3800 NE Third Ave.
Pompano Beach, FL 33064

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BROOKS, CAMERON & HUEBSCH , PLLC
1221 NICOLLET AVENUE , SUITE 500
MINNEAPOLIS, MN 55403

Mail Date: 04/21/2010

Applicant	: Danny James Vatland	: DECISION ON REQUEST FOR
Patent Number	: 7590534	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/144,436	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/09/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1088** 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/144,454	05/10/2002	Qinghua Zheng	67272-8047.US01	3826

77042 7590 06/16/2009
Perkins Coie LLP
P.O. Box 1208
Seattle, WA 98111-1208

EXAMINER
FORD, GRANT M

ART UNIT	PAPER NUMBER
2442	

MAIL DATE	DELIVERY MODE
06/16/2009	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.

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JUN 16 2009

TECHNOLOGY CENTER 2100

Jordan M. Becker
PERKINS COIE LLP
P.O. BOX 1208
Seattle, Washington 98111-1208

In re Application of: ZHENG, Qinghua
Application No. **10/144,454**
Filed: May 10, 2002
Atty. Docket No. 67272-8047.US01
Title: METHOD AND APPARATUS FOR STREAMING MEDIU MULTICAST

DECISION ON PETITION UNDER 37 C.F.R. § 1.181

This is a decision on the petition filed April 29, 2009 under 37 CFR § 1.181 to invoke Supervisory Authority of the Commissioner and require the Examiner to withdraw the Notice of Non-Responsive Amendment under 37 CFR 1.111.

The Applicant's counsel filed a petition to the Director under 37 CFR § 1.181 to seek relief from actions of the Examiner in relation to Notice of Non-Responsive Amendment under 37 CFR 1.111 mailed April 13, 2009 in response to Applicant's Amendment filed March 27, 2008. The amendment document filed on March 27, 2008 was considered non-responsive by Examiner because allegedly amendment failed to meet the requirement of 37 CFR 1.111(c). Specifically, "failing to show how the amendments avoid the cited prior art".

Responsive to the Notice of non-compliant amendment mailed April 13, 2009 applicant request withdrawal of the same as being allegedly clearly erroneous.

Accordingly, the petition is **GRANTED.**

RULES AND REGULATIONS

704.11(a) [R-3] Examples of Information Reasonably Required

37 CFR 1.105(a)(1)(i)(viii) lists specific examples of information that may be reasonably required. Other examples, not meant to be exhaustive, of information that may be reasonably required for examination of an application include:

(S) Interrogatories or Stipulations.

(8) Of support for added limitations in an amended claim,

714.02 [R-3] Must Be Fully Responsive

37 CFR 1.111 Reply by applicant or patent owner to a non-final Office action.

(a) (1) If the Office action after the first examination (§ 1.104) is adverse in any respect, the applicant or patent owner, if he or she persists in his or her application for a patent or

reexamination proceeding, must reply and request reconsideration or further examination, with or without amendment. See § 1.135 and 1.136 for time for reply to avoid abandonment.

(2) Supplemental replies.

(b) In order to be entitled to reconsideration or further examination, the applicant or patent owner must reply to the Office action. The reply by the applicant or patent owner must be reduced to a writing which distinctly and specifically points out the supposed errors in the examiner 's action and must reply to every ground of objection and rejection in the prior Office action. The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. ...

(c) ...

The claims may be amended by canceling particular claims, by presenting new claims, or by rewriting particular claims as indicated in 37 CFR 1.121(c). The requirements of 37 CFR 1.111(b) **must** be complied with by *pointing out the specific distinctions believed to render the claims patentable over the references in presenting arguments in support of new claims and amendments*.

An amendment submitted after a second or subsequent non-final action on the merits which is otherwise responsive but which increases the number of claims drawn to the invention previously acted upon is not to be held not fully responsive for that reason alone. (See 37 CFR 1.112, MPEP § 706.)

The prompt development of a clear issue requires that the replies of the applicant meet the objections to and rejections of the claims. Applicant ***should*** also specifically *point out the support for any amendments made to the disclosure. See MPEP § 2163.06.* An amendment which does not comply with the provisions of 37 CFR 1.121(b), (c), (d), and (h) may be held not fully responsive. See MPEP § 714.

DECISION

A review of the file, particularly, remarks section of Amendment document filed on September 7, 2008, seems to show how the amendments avoid the cited prior art in response to an Office Action mailed June 7, 2007. A subsequent communication of Requirement for information under 37 CFR 1.105 was mailed by the Office on November 28, 2007. An Amendment filed on March 27, 2008 is in response to the 37 CFR 1.105 requirement, mailed on November 28, 2007.

Thus, remarks and claim amendment filed on March 27, 2008 is in response to a 37 CFR 1.105 requirement. The remarks of the Amendment document filed on September 7, 2008 has pointed out the specific distinctions believed to render the claims patentable over the references in presenting arguments in support of new claims and amendments in response to the Office Action mailed June 7, 2007. Hence, Amendments filed on June 7, 2007 and March 27, 2008 are in compliance with the above mentioned requirements of 37 CFR 1.105 and 37 CFR 1.111(c).

Accordingly, the petition is **GRANTED.**

The application will be forwarded to the Examiner to withdraw the Notice of Non-Responsive Amendment mailed April 13, 2009 and treatment of Amendment/Response filed March 27, 2008.

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-3902.

/pl/

Beatriz Prieto

Beatriz Prieto, Quality Assurance Specialist
Technology Center 2400
Network, Multiplexing, Cable and Security

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Perkins Coie LLP
P.O. Box 1208
Seattle, WA 98111-1208

Mail Date: 05/07/2010

Applicant	: Qinghua Zheng	: DECISION ON REQUEST FOR
Patent Number	: 7657644	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/144,454	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/10/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **998** 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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WELSH & KATZ, LTD
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO IL 60606

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AUG 10 2007

OFFICE OF PETITIONS

In re Application of	:	
Munetaka Kanno	:	
Application No. 10/144,464	:	DECISION ON PETITION
Filed: May 13, 2002	:	
Attorney Docket No. 87438	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 18, 2006, to revive the above-identified application.

The petition is **GRANTED.**

A Notice of Abandonment has not been mailed in this application. However, this application became abandoned by operation of law for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed May 3, 2006, which set a shortened statutory period for reply of three (3) months. A three (3) month extension of time was obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on November 4, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of a request for continued examination, $790 filing fee, and submission as required by 37 CFR 1.114, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the final Office action of May 3, 2006 is accepted as being unintentionally delayed.

This application is being referred to Technology Center AU 3714 for processing the request for continued examination and for appropriate action in the normal course of business on the submission under 37 CFR 1.114 received December 18, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

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Paper No. 112503

MYERS & KAPLAN, INTELLECTUAL PROPERTY LAW, L.L.C.
1899 POWERS FERRY ROAD
SUITE 310
ATLANTA, GA 30339

NOV 24 2003

In re Application of	)	
WADDELL FIELDS	)	
Application No. 10/144,465	)	DECISION ON REQUEST TO
Filed: May 13, 2002	)	WITHDRAW FROM RECORD
For: Attorney Docket No. 2000-1440-RA2	)	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed July 11, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request meets all the above listed requirements.

The request is APPROVED.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Jose G. Dees, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: WADDELL FIELDS
2014 Quinton Place
Suwanee, GA 30024

UNITED STATES 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

STEVEN J. MOORE
58 BUTTERFIELD ROAD
NEWTOWN, CT 06470

COPY MAILED
MAR 24 2004
OFFICE OF PETITIONS

In re Application of	:	
Moore	:	DECISION ON PETITION
Application No. 10/144,501	:	
Filed: May 13, 2002	:	
Atty. Dkt. No.: 122995-74746.3	:	

This is a decision on the petition under 37 CFR 1.137(a), filed March 12, 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 mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is not a final agency decision.

This application became abandoned August 19, 2002 for failure to timely reply to the Notice to File Corrected Application Papers ("Notice") mailed June 18, 2002. The Office action set a two (2) month shortened statutory period of time for reply. No extensions of time in accordance with 37 CFR 1.136(a) were timely requested. Notice of Abandonment was mailed January 20, 2004.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The present petition lacks requirement (3) above. Petitioner has failed to present a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply

from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable.

The Office may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable." See, 37 CFR 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

Petitioner alleges non-receipt of the Notice. In the absence of any irregularity in the mailing of the Notice, there is a strong presumption that the Notice was properly mailed to the correspondence address of record. This presumption may be overcome by a showing that the Notice was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the attorney of record stating that the Office communication was not received and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in the attorney's statement. See, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

The instant petition is not accompanied by corroborative evidence to support the allegation that the Notice was not received. Any renewed petition must be accompanied by evidence to sufficiently establish the Notice was not received at the correspondence address of record at the time of mailing of the Notices.

ALTERNATE VENUE

Petitioner is urged to consider filing a petition stating that the delay was unintentional. Petitioner's attention is directed to 37 CFR 1.137(b) which provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable". An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required petition fee and reply.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail:	**Mail Stop Petition** Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By hand delivery or courier service(FedEx, UPS, DHL, etc.):	U.S. Patent and Trademark Office 2011 South Clark Place Customer Window, **Mail Stop Petition** Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

Petitioner is advised that the change of correspondence address submitted October 21, 2003 has been entered into the record.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
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. 8

STEVEN J. MOORE
58 BUTTERFIELD ROAD
NEWTOWN, CT 06470

COPY MAILED

JUN 23 2004

OFFICE OF PETITIONS

In re Application of	:
Moore	: DECISION ON PETITION
Application No. 10/144,501	:
Filed: May 13, 2002	:
Atty. Dkt. No.: 122995-74746.3	:

This is a decision on the renewed petition under 37 CFR 1.137(a), filed May 26, 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 mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is not a final agency decision.

This application became abandoned August 19, 2002 for failure to timely reply to the Notice to File Corrected Application Papers ("Notice") mailed June 18, 2002. The Office action set a two (2) month shortened statutory period of time for reply. No extensions of time in accordance with 37 CFR 1.136(a) were timely requested. Notice of Abandonment was mailed January 20, 2004. A petition under 37 CFR 1.137(a) was filed March 12, 2004 and dismissed March 24, 2004.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The present petition lacks requirement (3) above. Petitioner has failed to present a showing to the satisfaction of the

Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable.

The Office may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable." See, 37 CFR 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

Petitioner alleges non-receipt of the Notice. In the absence of any irregularity in the mailing of the Notice, there is a strong presumption that the Notice was properly mailed to the correspondence address of record. This presumption may be overcome by a showing that the Notice was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the attorney of record stating that the Office communication was not received and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in the attorney's statement. See, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

The instant petition is not accompanied by corroborative evidence to support the allegation that the Notice was not received. Petitioner's declaration in and of itself is not sufficient to establish unavoidable delay. Petitioner is required to provide supporting evidence of the facts set forth in the declaration, typically in the form of docketing records, copies of file jackets, etc. As to petitioner's contention that the required evidence is both "arbitrary and capricious," petitioner is reminded that the burden remains on petitioner to establish to the satisfaction of the Commissioner that the Notice was not received at the correspondence address of record as alleged on petition. Despite the fact that petitioner continues to allege non-receipt of the Notice, no evidence of non-receipt has been presented. Absent supporting evidence, the presumption remains that Notice was properly sent to and received at the correspondence address of record.

Any renewed petition must be accompanied by evidence to sufficiently establish the Notice was not received at the correspondence address of record at the time of mailing of the Notices.

ALTERNATE VENUE

Petitioner is urged to consider filing a petition stating that the delay was unintentional. Petitioner's attention is directed to 37 CFR 1.137(b) which provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable". An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required petition fee and reply.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail:	**Mail Stop Petition** Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By hand delivery or courier service(FedEx, UPS, DHL, etc.):	U.S. Patent and Trademark Office 2011 South Clark Place Customer Window, **Mail Stop Petition** Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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www.uspto.gov

Paper No. 11

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SEP 01 2004
OFFICE OF PETITIONS

STEVEN J. MOORE
17 Cobblestone Lane
Newton, CT 06470

In re Application of :
Moore : DECISION ON PETITION
Application No. 10/144,501 :
Filed: May 13, 2002 :
Atty. Dkt. No.: 122995-74746.3 :

This is a decision on the petition renewed under 37 CFR 1.137(b) filed August 25, 2004. This is also a decision under 37 CFR 1.26(b) on the request for refund of petition fee.

DECISION UNDER 37 CFR 1.137(b)

The application became abandoned August 19, 2002 for failure to timely reply to the Notice to File Correct Application Papers ("Notice") mailed June 18, 2002. The Notice set a two (2) month shortened statutory period for reply. No petition for extension of time in accordance with 37 CFR 1.136 was timely filed. Notice of Abandonment was mailed January 20, 2004. A petition under 37 CFR 1.137(a) was filed March 12, 2004 and dismissed March 24, 2004. A renewed petition under 37 CFR 1.137(a) was filed May 26, 2004 and dismissed June 23, 2004.

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). The failure to timely reply to the Notice mailed June 18, 2002 is accepted as having been unintentionally delayed.

Accordingly, the petition under 37 CFR 1.137(b) is **GRANTED**.

DECISION UNDER 37 CFR 1.26(b)

Petitioner herein requests refund of the $55.00 petition fee submitted March 12, 2004 under 37 CFR 1.137(a)(2). Petitioner is advised that submission of the petition fee is a prerequisite for treatment on the merits of any petition submitted under 37 CFR 1.137(a). As decisions on the merits were rendered March 24, 2004 and June 23, 2004, a refund of the petition fee is not in order.

Accordingly, the request for refund under 37 CFR 1.26(b) is **DISMISSED**.

The requested change of correspondence address has been entered into the record.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding the content of this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

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MAY 25 2004

OFFICE OF PETITIONS

In re Application of	:	
Leenaerts et al.	:	
Application No. 10/144,528	:	ON PETITION
Filed: May 13, 2002	:	
Attorney Docket No. NL010282	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 23, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed December 8, 2003, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 9, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a request to change the address of record should be filed. 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 matter is now being forwarded to the Publishing Division for processing into a patent.

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

Liana Chase

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: INTELLECTUAL PROPERTY & STANDARDS
PHILIPS ELECTRONICS NORTH AMERICAN CORPORATION
1109 MCKAY DRIVE; MAIL STOP SJ41
SAN JOSE, CA 95131

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HUFFMAN LAW GROUP, P.C.
1900 MESA AVE.
COLORADO SPRINGS CO 80906

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MAR 0 5 2007

OFFICE OF PETITIONS

In re Application of
Phil **DELURGIO**, et al.
Application No.10/144,537
Filed: May 10, 2002
Attorney Docket No. DT.0103.C1

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 27, 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 January 24, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Monica Graves at (571) 272-7253.

This application is being referred to Technology Center AU 3694 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Frances Hicks
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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Alexandria, VA 22313-1450
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JAN 09 2008

OFFICE OF PETITIONS

KENDYL A. ROMAN
730 BARTEY COURT
SUNNYVALE CA 94087

In re Application of	:
Kendyl A. Roman	:
Application No. 10/144,546	: DECISION GRANTING PETITION
Filed: May 10, 2002	: UNDER 37 CFR 1.137(b)
For: SEPARATE PLANE COMPRESSION	:

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 June 7, 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 2621.

Karen Creasy

Karen Creasy
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
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

FULWIDER PATTON, LLP (ABBOTT)
6060 CENTER DRIVE
10TH FLOOR
LOS ANGELES, CA 90045

Mail Date: 04/21/2010

Applicant	: Yung-Ming Chen	: DECISION ON REQUEST FOR
Patent Number	: 7572286	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/144,553	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/13/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1647** 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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CANTOR COLBURN LLP - BELLSOUTH
20 Church Street
22nd Floor
Hartford CT 06103

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FEB 19 2008

OFFICE OF PETITIONS

In re Application of :
Koch et al. :
Application No. 10/144,555 : ON PETITION
Filed: May 13, 2002 :
Attorney Docket No. BLL-0449 :

This is a decision on the petition, filed December 27, 2007 , 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 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 for failure to reply to the final Office action mailed on April 23, 2007 , which 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 July 24, 2007. A Notice of Abandonment was mailed on November 16, 2007.

Petitioner asserts that the Office action dated April 23, 2007 was not received. Petitioner contends that the Office Action was not received because the revocation and change of correspondence address was not entered by the Office. Petitioner maintains that a revocation and change of address was submitted on March 28, 2007.

Petitioner's argument has been considered but it is not convincing to establish the holding of abandonment should be withdrawn. The final Office Action was mailed on April 23, 2007. A review of the record shows that a revocation and change of address was submitted on April 25, 2007. Contrary to petitioner's assertions, Office records do

not show that a request to change the address was submitted on March 28, 2007. Although the request to change the correspondence address was signed and dated on March 28, 2007, the certificate of transmission confirms the request was not submitted until April 25, 2007. Petitioner has failed to provide evidence that a request to revoke and change the correspondence address was submitted prior to April 23, 2007.

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 address allow for withdrawing the holding of abandonment. To the extent petitioner contends that a request to change the correspondence address prior to April 23, 2007 was submitted, evidence to that effect should be provided.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in 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 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay 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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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AT&T Legal Department - CC
Attn: Patent Docketing
Room 2A-207
One AT&T Way
Bedminster NJ 07921

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OFFICE OF PETITIONS

In re Application of :
Koch et al. :
Application No. 10/144,555 :
Filed: May 13, 2002 :
Attorney Docket No. BLL-0449 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 12, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 23, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is July 24, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (3).

As to item (3), although petitioner has provided an unintentional statement, the record shows that there has been delay in filing a petition to revive the application. A petition filed under 37 CFR 1.181 was dismissed on February 19, 2008. The record shows that neither a request for reconsideration or a petition under 37 CFR 1.137(b) was provided until almost one year after the petition decision on February 12, 2009. On renewed petition, petitioner should provide an explanation for the delay in seeking the revival of the instant application.

The address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition. However, the Office will mail all future correspondence solely to the address of record.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

Cc: David A. Fox
Cantor Colburn LLP
20 Church Street, 22nd Floor
Hartford, CT 06103-3207

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

AT&T Legal Department - CC
Attn: Patent Docketing
Room 2A-207
One AT&T Way
Bedminster NJ 07921

COPY MAILED

JUN 1 2 2009

OFFICE OF PETITIONS

In re Application of :
Koch et al. :
Application No. 10/144,555 : ON PETITION
Filed: May 13, 2002 :
Attorney Docket No. BLL-0449 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 7, 2009, 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 23, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is July 24, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

The address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition. However, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being referred to Technology Center AU 2619 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.

Charlema Grant
Petitions Attorney
Office of Petitions

Cc: David A. Fox
Cantor Colburn LLP
20 Church Street, 22nd Floor
Hartford, CT 06103-3207

AUG 3 0 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/144,559	05/13/2002	Margot M. O'Toole	01997.001100

CONFIRMATION NO. 5522

FORMALITIES LETTER

OC000000008354639

5514
FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

Date Mailed: 06/26/2002

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 missing.
  A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of $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.

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

AUG 3 0 2002

M.P.

01997.001100.

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	Examiner: NYA
MARGOT M. O'TOOLE, et al.	Group Art Unit: 1645
Application No.: 10/144,559	
Filed: May 13, 2002	
For: METHODS FOR DIAGNOSING AND TREATING ISCHEMIA AND REPERFUSION INJURY AND COMPOSITIONS THEREOF	

Box Missing Parts
Commissioner for Patents
Washington, D.C. 20231

ATTENTION: APPLICATION PROCESSING DIVISION, SPECIAL PROCESSING AND CORRESPONDENCE BRANCH

RESPONSE TO NOTICE TO FILE MISSING
PARTS OF NON-PROVISIONAL APPLICATION

Sir:

In response to the NOTICE TO FILE MISSING PARTS OF NON-PROVISIONAL APPLICATION mailed June 26, 2002, enclosed please find an executed Declaration/Power of Attorney form, together with the surcharge fee of $130.00. Also enclosed is a copy of the NOTICE TO FILE MISSING PARTS OF NON-PROVISIONAL APPLICATION.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first-class mail in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231 on
August 26, 2002
(Date of Deposit)

Raymond R. Mandra, Reg. No.: 34,382
(Name of Attorney for Applicant)

Signature — August 26, 2002
Date of Signature

The Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 06-1205.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our address given below.

Respectfully submitted,

Raymond R March

Attorney for Applicants

Registration No. 34,382

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
Facsimile: (212) 218-2200

NY_MAIN 286135v1

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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APR 17 2003

Technology Center 2100

Paper No. 7

Carr & Ferrell LLP
2225 East Bayshore Road
Suite 200
Palo Alto, CA 94303

In re Application of: Sergey Potekhin, et al.	)	
Application No. 10/144,561	)	**DECISION ON REQUEST FOR**
Filed: May 10, 2002	)	**WITHDRAWAL AS ATTORNEY**
For: CONTROL UNIT FOR MULTIPOINT	)	
MULTIMEDIA/AUDIO SYSTEM	)	

This is a decision on the Request To Withdraw from Representation filed April 2, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Wong,Cabello, Lutsch, Rutherford & Brucculeri, P.C.
20333 SH 249
Suite 600
Houston, TX 77070

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

Skjerven Morrill MacPherson LLP
Suite 700
25 Metro Drive
San Jose CA 95110

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SEP 0 6 2002

OFFICE OF PETITIONS

In re Application of
Claseman
Application No. 10/144,569
Filed: July 25, 2002
Attorney Docket No. M-12738 US

DECISION ON PETITION

This is a decision on the petition entitled, " RESPONSE TO NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION AND PETITION FOR FILING DATE OF MAY 10, 2002," filed July 25, 2002, requesting that the above-identified application be accorded a filing date of May 10, 2002. The application will be treated under 37 CFR 1.53(e).

The application was deposited on May 10, 2002. On June 25, 2002, the Office of Initial Patent Examination mailed a " Notice of Incomplete Nonprovisional Application" informing petitioner that the specification, including at least one claim, was missing.

In response to the Notice, petitioner timely filed the present petition. Petitioner requests the May 10, 2002 filing date on the basis that the allegedly omitted specification, including at least one claim, was received in the Patent and Trademark Office (PTO) on May 10, 2002. In support, the petition is accompanied by a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination barcode listing May 10, 2002 as the date of receipt. In addition, petitioner has submitted a declaration by an attorney of record attesting to the fact that he recalled the entire application, including a specification, including at least one claim, was filed via Express Mail on May 10, 2002.

Petitioner is advised that the provisions of 37 CFR 1.10(e) cannot be utilized to prove the contents of a mailing. MPEP 513 states, "Where there is a dispute as to the contents of correspondence submitted to the Office,...an applicant may not rely upon the provisions of 37 CFR 1.10(e) to establish what document(s)... were filed in the Office with such correspondence. Rather, where the records of the Office (e.g. the file of the application) contain any document(s)... corresponding to the contents of the correspondence at issue, the Office will rely upon its official record of the contents of such correspondence

in absence of convincing evidence (e.g., a postcard receipt under MPEP 503 containing specific itemization of the document(s)... purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s).. That is not among the official records of the Office."

A properly itemized return postcard constitutes *prima facie* evidence that the items were filed on the date stamped thereon. MPEP 503. Unfortunately, the itemized postcard in this case was annotated by the Office. The annotation states that 30 pages of specification and 3 pages of claims were NOT received on May 10, 2002.

In addition, the declaration submitted with the instant petition is not persuasive evidence as to the contents of the May 10, 2002 filing because the declaration, which recounts routine events, was created months after the May 10, 2002 filing.

The request for a May 10, 2002 filing date is dismissed. The filing date will be July 25, 2002, which is the date a specification, including at least one claim, was received in the Office.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of **July 25, 2002**, using the specification, claims, and abstract filed on July 25, 2002.

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

Paper No.: _____

DATE : 04/17/07

TO SPE OF : ART UNIT 2616

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/144569** Patent No.: **7177325**

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

SPE

2616
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

HUFFMAN LAW GROUP, P.C.
1900 MESA AVE.
COLORADO SPRINGS CO 80906

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MAR 08 2007

OFFICE OF PETITIONS

In re Application of :
G. Glenn Henry et al :
Application No. 10/144,589 :
Filed: May 9, 2002 :
Attorney Docket No. CNTR.2198 :

ON PETITION

This is a decision on the petition, filed March 2, 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 October 25, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2181 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).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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MAR 08 2007

OFFICE OF PETITIONS

HUFFMAN LAW GROUP, P.C.
1900 MESA AVE.
COLORADO SPRINGS CO 80906

In re Application of :
G. Glenn Henry et al :
Application No. 10/144,590 : ON PETITION
Filed: May 9, 2002 :
Attorney Docket No. CNTR.2189 :

This is a decision on the petition, filed March 2, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 24, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2181 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 3

JAMES W HUFFMAN
1832 N. CASCADE AVE.
COLORADO SPRINGS, CO 80907-7449

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AUG 2 0 2002

OFFICE OF PETITIONS

In re Application of :
G. Glenn Henry et al :
Application No. 10/144,592 : NOTICE
Filed: May 9, 2002 :
Attorney Docket No. CNTR.2186 :

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 2183.

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

HUFFMAN LAW GROUP PC
1832 N CASCADE AVENUE
COLORADO SPRINGS, CO 80907-7449

COPY MAILED

MAR 2 2 2005

OFFICE OF PETITIONS

In re Application of	:
G. Glenn Henry et al	:
Application No. 10/144,593	: DECISION GRANTING PETITION
Filed: May 9, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. CNTR.2188	:

This is a decision on the petition, filed March 14, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 24, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2183 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HUFFMAN LAW GROUP PC
1832 N. CASCADE AVENUE
COLORADO SRINGS, CO 80907-7449

COPY MAILED
JUL 2 1 2006
OFFICE OF PETITIONS

In re Application of	:
G. Glenn Henry et al	:
Application No. 10/144,593	: DECISION GRANTING PETITION
Filed: May 9, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. CNTR.2188	:

This is a decision on the petition, filed July 14, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 25, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2181 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission), which includes the following language thereon: "The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

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HUFFMAN LAW GROUP PC
1832 N. CASCADE AVENUE
COLORADO SRINGS, CO 80907-7449

COPY MAILED
JUL 21 2006
OFFICE OF PETITIONS

In re Application of	:
G. Glenn Henry et al	:
Application No. 10/144,595	: DECISION GRANTING PETITION
Filed: May 9, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. CNTR.2176	:

This is a decision on the petition, filed July 14, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 25, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2181 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission), which includes the following language thereon: "The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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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DLA PIPER RUDNICK GRAY CARY US, LLP
2000 UNIVERSITY AVENUE
E. PALO ALTO, CA 94303-2248

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JUL 0 6 2005

OFFICE OF PETITIONS

In re Application of
Allison et al.
Application No. 10/144,609
Filed: May 10, 2002
Attorney Docket No. 2100602-991120

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(a), filed February 8, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)."

Facts:

A final Office action was mailed May 14, 2004.

The Office action set a shortened statutory period for reply of three months.

A reply was filed August 13, 2004.

The examiner contacted applicants on November 22, 2004, and asked if they intended to allow the application to become abandoned. The examiner stated the Office had no record of having received a reply to the final Office action. The August 13, 2004, reply apparently had been misplaced by the Office. An additional copy of the reply was sent to the Office on November 29, 2004.

The examiner considered the amendment and determined the amendment raised new issues.

The examiner mailed an advisory action on December 14, 2004.

An advisory action does not set a new time period for response. Instead, the time period to file a reply remains the time period set forth in the final Office action. Therefore, the advisory action did not set a new time period for reply but stated that the period for reply remained the time period set forth in the final Office action. The Office notes the time period set forth in the final Office action has already expired as of December 14, 2004.

A Notice of Abandonment was mailed on February 10, 2005.

Analysis:

The examiner has considered the amendment filed with the petition and determined it fails to prima facie place the application in condition for allowance. Therefore, the petition can not be granted. Any request for reconsideration must be accompanied by a proper reply to the final Office action.

Petitioner has failed to provide 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. Therefore, the petition can not be granted.

The Unavoidable 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."[1] The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[2]

Analysis:

Petitioner was responsible for filing a proper reply within the time period set forth in the final Office action. The last day a reply could have been timely filed, with an extension of time, was Monday, November 15, 2004. On that date, petitioner has not received a Notice of Allowance. Applicant had the option of ensuring the application did not become abandoned by filing a Notice of Appeal or RCE. Applicant also had the option of risking abandonment by assuming the amendment would be entered. Applicant chose to risk abandonment. The amendment was not entered and the application became abandoned.

Petitioner has failed to prove that a person treating the application the same as his or her most important business would have risked abandonment rather than file a Notice of Appeal or RCE to ensure the application would not become abandoned.

Although the Office regrets an advisory action was not mailed earlier, the delay in the mailing of the advisory action does not make petitioner's failure to file a proper reply unavoidable. While the Office attempts to notify applicants of deficiencies in their responses in a manner permitting a timely correction, the Office is not obligated to provide such notice.

A petition under 37 CFR 1.137(a) must show the entire delay in the submission of a proper reply was unavoidable. The Office notes that a proper reply has not been filed and the delay continues. Petitioner has failed to prove a proper reply could not be filed with the instant petition.

Future options:

Petitioner may request reconsideration under 37 CFR 1.137(a).

In the alternative, petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($750 for a small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. A copy of a blank petition form is enclosed for petitioner's convenience.

Further correspondence with respect to this matter should be addressed as follows:

By facsimile: (703) 872-9306
Attn: Office of Petitions

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[1] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

[2] See In re Mattullath, 38 App. D.C. 497 (D.C. Cir. 1912

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
Randolph Building
401 Dulany Street
Alexandria, VA 22314

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

Telephone inquiries concerning the instant decision should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

Attached: Form PTO/SB/64

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DLA PIPER RUDNICK GRAY CARY US, LLP
2000 UNIVERSITY AVENUE
E. PALO ALTO, CA 94303-2248

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NOV 21 2005

OFFICE OF PETITIONS

In re Application of :
Allison et al. :
Application No. 10/144,609 :
Filed: May 10, 2002 :
Attorney Docket No. 350131-991120 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed September 8, 2005, to revive the above-identified application.

The petition is **granted**.

A final Office action was mailed May 14, 2004. A proper reply was not filed. No extensions of time were obtained. Therefore, the application became abandoned as of midnight on August 14, 2005. A Notice of Abandonment was mailed on February 10, 2005.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The petition implies petitioner wishes for the Office to change the attorney docket number for the application. Therefore, the attorney docket number for the application has been changed to 350131-991120.

Technology Center Art Unit 1772 will be informed of the instant decision so that the examiner can give further consideration to the application.

Telephone inquiries concerning the instant decision 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
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 5

RUSSELL E. WAGENECK
5622 EVERS ROAD, APT 3407
SAN ANTONIO TX 78238-1760

MAILED

APR 03 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Russell Wageneck
Application No. 10/144,616
Filed: May 13, 2002
For: **SHOWER HEAD RADIO**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition to make special filed on February 10, 2003 under MPEP 708.02 (IV), applicant's age.

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 Declaration from applicant stating that he/she is sixty five (65) years of age or more.

Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application will be forwarded to the examiner for action on the merits.

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
WASHINGTON, D.C. 20231
www.uspto.gov
DIW 11-02

Paper No. 5

TIMOTHY J. ENGLING
LEE, MANN, SMITH, MCWILLIAMS, SWEENEY & OHLSON
P.O. BOX 2786
CHICAGO IL 60690-2786

COPY MAILED

NOV 21 2002

OFFICE OF PETITIONS

In re Application of	:
Carson, Bendit, and Turley	: DECISION DISMISSING PETITION
Application No. 10/144,627	: AND REFUSING STATUS UNDER
Filed: 13 May, 2002	: 37 CFR 1.47(a)
Atty's Docket No. 6119-1000.1	:

This is a decision on the petition styled "Petition to Overcome the Improper Allegation of Omitted Drawings" filed on 5 August, 2002, which is treated as a petition under 37 CFR 1.53 requesting that the above-identified application be accorded a filing date of 13 May, 2002, with six (6) sheets of drawings containing Figures 1-20 as a part of the original disclosure. This is also a decision on the petition under 37 CFR 1.183, also filed on 5 August, 2002, in which petitioners assert that one of the joint inventors has refused to sign the declaration in compliance with 37 CFR 1.63. That petition is properly treated as a petition under 37 CFR 1.47(a).

The petitions are **DISMISSED**.

PETITION UNDER 37 CFR 1.53

On 13 May, 2002, the application was filed.

On 6 June, 2002, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application stating that the application had been accorded a filing date of 13 May, 2002, but that, *inter alia*, Figures 14-20 described in the specification appeared to have been omitted.

In response, on 5 August, 2002, two (2) sheets of drawings containing, *inter alia*, Figures 14-20 and the present petition were submitted. Petitioners assert that the two sheets of drawings containing Figures 14-20 was filed with the other

application papers on 13 May, 2002, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied with the present petition. The postcard receipt shows an Office date stamp of 13 May, 2002, with the above-identified application number, and identifies the application by attorney docket number, inventor's names, and invention title, and acknowledges receipt, *inter alia*, of 6 sheets of drawings. Petitioners request that the application, including the two (2) sheets of drawings containing Figures 14-20, be accorded a filing date of 13 May, 2002.

A review of the record reveals that 13 sheets of drawings, containing Figures 1-13, are located among the application papers contained in the official file. These 13 sheets of drawings, however, have been scanned by the Office with a different application number, and a copy of these drawings has been located in the file of the application to which they belong. As this other application was filed on the same date as the instant application, the evidence is convincing that the drawings from the other application were mismatched with the present application file due to an error on the part of the Office. The evidence is also convincing that applicants did file six (6) sheets of drawings containing Figures 1-20 with the other application papers on 13 May, 2002, and that the six (6) sheets of drawings were subsequently misplaced in the Office.

The 13 sheets of drawings misplaced in the present application have now been matched with the correct file.

Petitioners have submitted only two (6) of the six (6) drawing sheets asserted to have been originally filed, however. The petition is therefore **dismissed** without prejudice to reconsideration pending submission of the other four (4) sheets of drawings containing Figures 1-12.

Petitioners are given TWO MONTHS to supply the four (4) sheets of drawings containing Figures 1-12. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.53." **THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136(a) or (b)**. If the drawings are not received within this TWO (2) MONTH period, the application will be returned to the Initial Patent Examination Division for processing with only the two (2) sheets of drawings supplied on 5 August, 2002.

Petition Under 37 CFR 1.47(a)

The application was filed on 13 May, 2002, with a declaration naming Craig Carson, Mark Bendit, and Steven Turley as joint inventors and signed by joint inventor Carson. Accordingly, on 6 June, 2002, a Notice was mailed on 6 June, 2002, requiring the signatures of joint inventors Bendit and Turley.

In response, on 5 August, 2002, the present petition styled under 37 CFR 1.183 was filed, accompanied by a declaration signed by Bendit. Petitioners state that this application is a continuation in part (CIP) of Application No. 09/821,475, which named Carson, Bendit, and Turley as inventors, and that Turley did sign the declaration for the prior filed application.

At the outset an oath or declaration from a prior application may only be filed in a continuation or divisional application.[1] A newly executed oath or declaration must be filed in any continuation-in-part application.[2] Therefore, petitioners must file a new oath or declaration covering the present application.

A petition under 37 CFR 1.183 is appropriate only in extraordinary circumstances where justice requires waiver of the rules. The facts presented on the record do not adequately establish an extraordinary situation. Petitioner has not sufficiently established any special circumstances of equities that would require suspension of the rules in the interests of justice. In this case, however, the procedures set forth at 37 CFR 1.47(a) provide a means for petitioners to obtain the requested relief. Therefore, the petition is properly treated under 37 CFR 1.47(a).

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or 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.

---

[1] See 37 CFR 1.63(d).

[2] 37 CFR 1.63(e).

The present petition lacks item (1). Petitioners have not provided sufficient proof that a copy of the application (specification including claims, drawings, if any, and the Declaration) was sent or given to the non-signing inventor for review.[3] In this regard the statement of facts by Sherry Arndt states that "we" presented the application papers to Turley, but does not state the identity of the presenters. Petitioners may provide proof by presenting 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, the declaration states that an oral refusal was made at the time of presentment, but does not state to whom the refusal was made. If the refusal is made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts. If there is a written refusal, a copy thereof must be submitted with any renewed petition.

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 Petitions 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 in accordance with 37 CFR 1.136(a) are available in connection with the petition under 37 CFR 1.47(a).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

---

[3] MPEP 409.03(d).

Telephone inquires should be directed to the undersigned at 703 308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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DW 01-03

Paper No. 9

TIMOTHY J. ENGLING
LEE, MANN, SMITH, MCWILLIAMS, SWEENEY & OHLSON
P.O. BOX 2786
CHICAGO IL 60690-2786

COPY MAILED

JAN 15 2003

OFFICE OF PETITIONS

In re Application of	:
Carson, Bendit, and Turley	: DECISION GRANTING PETITION
Application No. 10/144,627	: AND ACCORDING STATUS UNDER
Filed: 13 May, 2002	: 37 CFR 1.47(a)
Atty's Docket No. 6119-1000.1	:

This is a decision on the papers styled as requests for reconsideration which are treated as (a) a renewed petition under 37 CFR 1.53 requesting that the above-identified application be accorded a filing date of 13 May, 2002, with six (6) sheets of drawings containing Figures 1-20 as a part of the original disclosure and (b) a petition under 37 CFR 1.47(a) in which petitioners assert that one of the joint inventors has refused to sign the declaration in compliance with 37 CFR 1.63.

The petitions are **GRANTED**.

PETITION UNDER 37 CFR 1.53

On 13 May, 2002, the application was filed.

On 6 June, 2002, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application stating that the application had been accorded a filing date of 13 May, 2002, but that, *inter alia*, Figures 14-20 described in the specification appeared to have been omitted.

In response, on 5 August, 2002, two (2) sheets of drawings containing, *inter alia*, Figures 14-20 and a petition were submitted. Petitioners asserted that the two sheets of drawings containing Figures 14-20 was filed with the other application papers on 13 May, 2002, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied with the present petition. The postcard receipt shows an Office date stamp of 13 May, 2002, with the above-identified application number, and

identifies the application by attorney docket number, inventor's names, and invention title, and acknowledges receipt, *inter alia*, of 6 sheets of drawings. Petitioners request that the application, including the two (2) sheets of drawings containing Figures 14-20, be accorded a filing date of 13 May, 2002.

A review of the record reveals that 13 sheets of drawings, containing Figures 1-13, are located among the application papers contained in the official file. These 13 sheets of drawings, however, have been scanned by the Office with a different application number, and a copy of these drawings has been located in the file of the application to which they belong. As this other application was filed on the same date as the instant application, the evidence is convincing that the drawings from the other application were mismatched with the present application file due to an error on the part of the Office. The evidence is also convincing that applicants did file six (6) sheets of drawings containing Figures 1-20 with the other application papers on 13 May, 2002, and that the six (6) sheets of drawings were subsequently misplaced in the Office.

The 13 sheets of drawings misplaced in the present application have now been matched with the correct file.

Petitioners have now submitted a copy of the six (6) drawings sheets asserted to have been originally filed on 13 May, 2002.

The petition is **granted**.

The application will be processed with a filing date of 13 May, 2002, using the four (4) sheets of drawings supplied on 3 January, 2003, and the two (2) sheets of drawings supplied on 5 August, 2002. The copies of the other sheets drawings supplied on 3 January, 2003, will not be used for processing or examination, but will be retained in the application file.

Petition Under 37 CFR 1.47(a)

Petitioner has shown, via the declaration of Sherry Arndt, that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with a copy of the application papers.

The above-identified application and papers have been reviewed

and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

As the petition under 37 CFR 1.53 was not necessitated by an error on the part of petitioners, the petition fee of $130.00 paid therefor will be credited to counsel's deposit account, No. 12-0913.

Receipt is acknowledged of the "formal drawings" filed on 3 January, 2003.

After this decision is mailed, the application will be forwarded to the Office of Initial Patent Examination for further processing with a filing date of 13 May, 2002, using the application papers filed on that date and the copy of four (4) sheets of drawings containing Figures 1-12 supplied on 3 January, 2003, and the copy of two (2) sheets of drawings containing Figures 13-20 supplied on 5 August, 2002, for an indication in Office records that six (6) sheets of drawings were present on filing, and for issuance of a corrected Filing Receipt.

Telephone inquires should be directed to the undersigned at 703 308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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DIW 01-03

Stephen Turley
924 Ridgewood Drive
Plainfield, IN 46168

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JAN 1 5 2003

OFFICE OF PETITIONS

In re Application of
Carson et al.
Application No. 10/144,627
Filed: 13 May, 2002
For: PALLET WITH STRESS RESISTANT STRUCTURE

Dear Mr. Turley:

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

TIMOTHY J. ENGLING
LEE, MANN, SMITH, MCWILLIAMS, SWEENEY & OHLSON
P.O. BOX 2786
CHICAGO, IL 60690-2786

PTO/SB/66 (03-09)
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U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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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)
6,860,051	2005-03-01	10/144,629	2002-05-13	5K02.1-011

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 W. Greenwald/	Date (YYYY-MM-DD)	2009-05-29
Name	John W. Greenwald	Registration Number	41803

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. 6860051
Issue Date: March 1,2005
Application No. 10144629
Filed: May 13,2002
Attorney Docket No. 5K02.1-011

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 29,2009 ,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 29,2009 .
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

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

MAILED

MAY 22 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Alston & Bird LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000

Paper No. 8

In re application of
Deborah B. Napier et al.
Application No. 10/144,656
Filed: May 13, 2002
For: SYSTEMS AND METHODS FOR USE IN ELECTRONIC PROCESSING OF FOREIGN ORIGIN AND EXPORT SHIPMENTS AND/OR PASSENGERS AND BAGGAGE AT SECURITY CHECK POINTS

DECISION ON PETITION TO MAKE SPECIAL (COUNTER TERRORISM)

This is in response to the petition filed on April 9, 2003 to make the above-identified application special on the basis of inventions for countering terrorism as set forth in MPEP § 708.02 XI.

The petition is **GRANTED**.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); and (B) a statement explaining how the invention contributes to countering terrorism.

Applicant's petition explains that "the systems and methods of the present invention are useful in combating terrorism in the air carrier and general security industry" by allowing "security to run electronic searches on passengers and attendees to better access which people should be further scrutinized." This is an acceptable explanation of how the invention would act to counter terrorism

Since all of the requirements for special status under MPEP § 708.02 XI have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121
(703) 605-0586 (facsimile)

RAR/tpl: 4/30/03

UNITED STATES PATENT & TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
Washington, D.C. 20231

MAILED

OCT 0 2 2002

Office of the Director
Group 3600

Paper No. 4

Joseph T. Guy, Ph.D.
Nexsen Pruet Jacobs & Pollard, LLC
PO Drawer 10648
Greenville, SC 29603-0648

In re application of
Victor J. Caponey
Application No. 10/144,660
Filed: May 22, 2002
For: METHOD FOR HIGHLY EFFICIENT REFUSE REMOVAL FROM A CONSTRUCTION SITE

: **DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)**

This is a decision on the petition under 37 C.F.R § 1.102(d) filed September 3, 2002 to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market; (B) that a rigid comparison of the alleged infringing device or product with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed September 3, 2002 includes all of the requirements above and, therefore, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

kjd: 9/26/02

SPE: J. Wu

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/6/06

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/144,667 Patent No.: 7062066

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: _____

BHAVESH M. MEHTA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

2624
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 6

FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

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MAY 01 2003

OFFICE OF PETITIONS

In re Application of
Khavkine, et al.
Application No. 10/144,672
Filed: May 13, 2002
Attorney Docket No. 74047

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed December 16, 2002.

The petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on May 13, 2002, without an executed oath or declaration. Accordingly, on June 11, 2002, applicant was mailed a Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted, requiring, *inter alia*, an executed oath or declaration and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition and paid the surcharge for late filing of the declaration. To make timely this reply, applicant obtained a four month extension of time and included a Certificate of Mailing dated December 11, 2002. Accompanying the petition was a declaration executed by joint inventor Mikhail Khavkine, but lacking a signature from joint inventor Barbara Isman.

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, Rule 47 applicant attested that Isman was mailed a copy of the application papers on September 9, 2002. According to applicant, no executed declaration from Isman 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

BARBARA ISMAN
166 WAVERLY ST
WINNIPEG MB R3P 1S8
CANADA

COPY MAILED

MAY 01 2003

OFFICE OF PETITIONS

In re Application of
Mikhail Khavkine and Barbara Isman
Application No. 10/144,672
Filed: May 13, 2002
Title: HYBRID YARNS WHICH INCLUDE OIL SEED FLAX PLANT BAST FIBER AND OTHER FIBERS AND FABRICS MADE WITH SUCH YARNS

LETTER

Dear Ms. Isman:

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

Cliff Congo
Petitions Attorney
Office of Petitions

Timothy E. Levstik
Fitch, Even, Tabin & Flannery
120 South LaSalle Street, Suite 1600
Chicago, Illinois 60603-3406
(312)577-7000

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3-30-05

TO SPE OF : ART UNIT 2829

SUBJECT : Request for Certificate of Correction on Patent No.: 6847218

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

E Young
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:

NESTOR RAMIREZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE

2829
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Fish & Neave
1251 Avenue of the Americas
50th Floor
New York, NY 10020-1105

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OCT 24 2002

OFFICE OF PETITIONS

In re Application of	:
Andrew C. Gilbert et al	:
Application No. 10/144,695	: DECISION GRANTING
Filed: May 10, 2002	:STATUS UNDER 37 CFR 1.47(a)
Attorney Docket No: CF-45	:
	:

This is in response to the petition under 37 CFR 1.47(a), filed July 23, 2002 and supplemented on October 15, 2002.

The petition is granted.

Petitioner has shown that the legal representative for deceased joint inventor Andrew C. Gilbert has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the nonsigning inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-8680.

This application is being forwarded to Technology Center AU 3621 for examination in due course.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Mary Ann Gilbert
5 Scarlet Oak Road
Califon, NJ 07830

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OCT 2 4 2002

OFFICE OF PETITIONS

In re Application of
Andrew C. Gilbert; William P. Tselepis; and Andrew Stergiopoulos
Application No. 10/144,695
Filed: May 10, 2002
For: SYSTEMS AND METHODS FOR FINANCIAL INSTRUMENT INSPECTION

Dear Ms. Gilbert:

You are named as a legal representative for deceased joint inventor Andrew C. Gilbert 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 legal representative.

As a legal representative, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-8680. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Fish & Neave
1251 Avenue of the Americas
50th Floor
New York, NY 10020-1105

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAIL Paper No. 4

APR 1 1 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
2101 L STREET NW
WASHINGTON DC 20037-1526

In re Application of:
Stephen Forte et al
Application No. 10/144,714
Filed: May 15, 2002
For: **METHOD AND APPARATUS FOR COMMUNICATING WITH ONE OF PLURAL DEVICES ASSOCIATED WITH A SINGLE TELEPHONE NUMBER DURING A DISASTER AND DISASTER RECOVERY**

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 June 19, 2002.

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. The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.

The statements made in the petition do not show how the technology of the instant application directly contributes to the countering of terrorism. A method of operating a telecommunication system during and immediately after a disaster of applicant's invention do not counter terrorism directly and do not fall into the category of invention as outlined above.

Accordingly, the petition is **DENIED**.

Petitioner is given TWO MONTHS from the date of this decision to request reconsideration and supplement the original petition as appropriate.

The application file will be returned to the Technology Center's central files storage area to await action in its regular turn.

Krista Zele
Special Program Examiner
Technology Center 2600
(703) 305-4701

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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MAIL Paper No. 6

JUN 5 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
2101 L STREET NW
WASHINGTON DC 20037-1526

In re Application of:
FORTE, STEPHEN P.
Application No. 10/144,714
Filed: May 15, 2002
For: **METHOD AND APPARATUS FOR COMMUNICATING WITH ONE OF PLURAL DEVICES ASSOCIATED WITH A SINGLE TELEPHONE NUMBER DURING A DISASTER AND DISASTER RECOVERY**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the Renewed Petition To Make Special under MPEP 708.02, XI: Invention for Countering Terrorism, filed May 12, 2003, which is being treated as a request for reconsideration of the decision mailed April 11, 2003. The request for reconsideration does not require a fee.

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. The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.

In the request for reconsideration, petitioner cites an example of how the invention would be used in the event of a terrorist attack on the United States Capitol. The Petitioner states that "[b]y restoring telephonic communication to the Representatives and Senators quickly, the effect of such an attack is dramatically reduced" Petitioner further argues that "Applicant submits the invention need not necessarily directly counter terrorism".

It is the alleged potential of the disclosed invention, or of characteristics of the disclosed invention ***which might be used to restore communications in the event of a terrorist attack*** that applicant feels allows this application to be made special.

Petitioner's arguments have been fully considered but are not deemed persuasive. MPEP 708.02 XI lists examples of types of inventions that would qualify as countering terrorism, such as systems for detecting or identifying explosives. While a grantable petition is not limited to these examples, all of the examples provided clearly act to directly counter terrorism. The intent of the examples is that any such disclosed invention must clearly act to counter terrorism. The specification, claims, and drawings of the instant applicant do not ***directly*** relate to countering terrorism. For example, "[t]he invention is not to be limited to any particular environment" is cited in the paragraph bridging pages 8-9 of the specification, and "[b]y means of an **example only**, it is presumed that the infrastructure of location A has been destroyed by an act of terrorism **or some other disaster**" (emphasis added) on lines 17-18 on page 31. The indirect tie of a potential for this invention to reroute communications as argued by petitioner is not seen as being sufficient to accord special status to this application. Otherwise, any type of communication contingency plan (including any kind of mobile radio) would be deemed to have a potential for 'countering terrorism'.

Applicant may consider requesting special status under MPEP § 708.02, VIII.

Accordingly, the Request for Reconsideration is **DENIED**.

Petitioner is given TWO MONTHS from the date of this decision to request reconsideration and supplement the original petition as appropriate. Should petitioner decide to petition this decision, a separate petition under 37 CFR 1.181(a)(3) should be filed.

The application file is being returned to the Technology Center's central files storage area to await action in its regular turn.

James L. Dwyer, Director
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

APR 2 6 2004

In re Application of	:	
Hirotake Fujita, et al.	:	
Serial Number : 10/144,741	:	WITHDRAWAL
Filed : May 13, 2002	:	FROM
For : THERMOSENSITIVE RECORDING MATERIAL AND NOVEL COLOR DEVELOPER COMPOUNDS	:	ISSUE

Applicant has petitioned for withdrawal of this application from issue pursuant to 37 CFR 1.313.

The application is being withdrawn to permit consideration of an Information Disclosure Statement filed under 37 CFR Section 1.97(d).

PTO records reveal that the issue fee has not been paid. Applicant has authorized the charging of the petition fee of $130 required under 37 CFR 1.17(h) to Deposit Account No. 03-1728.

The application is being forwarded to the examiner for action.

JMStone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Christie, Parker & Hale, LLP
350 West Colorado Blvd.
Suite 500
Pasadena, CA 91105

cc:Allowed Files, Pk3-910

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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WENDEROTH, LIND & PONACK
2033 K STREET N.W.
SUITE 800
WASHINGTON DC 20006-1021

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OFFICE OF PETITIONS

In re Application of	:	
Wolfgang Held	:	
Application No. 10/144,743	:	DECISION GRANTING PETITION
Filed: May 15, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 2002-0632A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 24, 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, amendment and an IDS; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection of October 13, 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 3637.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

GREENBERG-TRAURIG
1750 TYSONS BOULEVARD, 12TH FLOOR
MCLEAN VA 22102

In re Application of

Lijun Niu et al.
Application No. 10/144,773
Filed: May 15, 2002
Attorney Docket No. 47939.010100UT

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 3, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, ***the firm no longer represents this applicant***, do not meet any the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272- 2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Holger C. Dietze**
13409 Marble Rock Drive
Chantilly, VA 20151-2482

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MORGAN, LEWIS & BOCKIUS, LLP.
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO, CA 94306

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JAN 27 2006

OFFICE OF PETITIONS

In re Application of :
Edward R. Hyde, Jr. :
Application No. 10/144,812 :
Filed: May 13, 2002 :
Attorney Docket No. 61115-0009 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 17, 2006, 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 October 15, 2004. Accordingly, this application became abandoned on January 16, 2005. A Notice of Abandonment was mailed on May 3, 2005.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

The file is being forwarded to Technology Center 3700 for review of the amendment filed January 17, 2006, *in due course*.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
Office of the Deputy Commissioner
for Patent Examination Policy

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

CORPORATE PATENT COUNSEL
U.S. PHILLIPS CORPORATION
580 WHITE PLAINS ROAD
TARRYTOWN, NY 10591

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SEP 1 0 2002

OFFICE OF PETITIONS

In re Application of
MARTYNOV, et al.
Application No. 10/144,825
Filed: October 25, 2001
Attorney Docket No. NL010021

DECISION ON PETITION

This is a decision on the "Petition under 37 CFR § 1.10(e)," filed May 14, 2002, requesting that the above-identified application be accorded a filing date of October 25, 2001.

The petition is **DISMISSED AS MOOT**.

Having not received a return postcard receipt or a filing receipt, petitioner filed the instant petition maintaining that the above-identified application was deposited in the United States Postal Service (USPS) Express Mail Post Office to Addressee service on October 25, 2001, pursuant to the requirements of 37 CFR §1.10, and thus, the application is entitled to a filing date of October 25, 2001. A copy of the application papers maintained to have been deposited on October 25, 2001 were submitted on petition.

A review of the application file and of Office records reveals that the instant application was received and accorded a filing date of October 25, 2001. A further review of the papers present in the application file reveals that they include all of the papers submitted on petition. Accordingly, the petition is moot.

No petition fee is required and none has been charged.

The application is being returned to the Office of Initial Patent Examination for completion of pre-examination processing, including processing of the reply to the Notice to File Missing Parts of Application, a declaration and surcharge filed August 5, 2002.

Telephone inquiries regarding this matter should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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OFFICE OF PETITIONS

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

In re Application of :
Yourii V. Martynov, et al. :
Application No. 10/144,825 : ON PETITION
Filed: October 25, 2001 :
Attorney Docket No. NL010021 :

This is a decision on the petition, filed May 30, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to the Office action under Ex parte Quale, 1935 Dec. Comm'r Pat. 11 (1935), mailed June 17, 2005, which set a two-month period for response. A Notice of Abandonment was mailed on February 3, 2006. In response, on May 30, 2006, an amendment and the present petition were filed.

A grantable petition under 37 CFR 1.137(b)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D).

It is noted that petitioners request that the abandonment be withdrawn; however, the record shows that the abandonment was proper. The U.S. Patent and Trademark Office did not receive the response by facsimile transmission on September 19, 2005. In fact, petitioner acknowledges that the facsimile in question did not "transmit to the US Patent Office because of poor line condition". The amendment was not filed until May 30, 2006. Therefore, the present petition and fee are necessary to revive the application.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) a general authorization to charge the petition fee to counsel's deposit account; and (3) the requisite statement of unintentional delay.

---

[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 application file is being forwarded to Technology Center AU 2653 for consideration of the amendment filed May 30, 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

OIPE
MAY 14 2002
PATENT & TRADEMARK OFFICE

5

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of
LUCAS JOHANNES A.M. BECKERS

Atty. Docket
NL 000597

Application No.

Group Art Unit:

Filed: October 25, 2001

Examiner:

Title: METHOD OF MANUFACTURING A LAMP

Dismissed as Moot
Receipt date granted
is 10/25/01.
J. Chang
from OPLA

Mail Stop Filing Date
U.S. Patent and Trademark Office
P.O. Box 2327
Arlington,VA 22202

PETITION
UNDER 37 CFR §1.10(e)

Sir:

On the annexed declaration of Vera Kublanov, Applicant respectfully petitions that the USPTO consider the patent application papers, constituting an exhibit to said declaration, which were mailed by Express Mail on October 25, 2001 in regard to the above-captioned application, as having been filed on that date.

This petition is made as a result of a check initiated in view of the notice on the USPTO website entitled "Patent Applications submitted to the United States Patent and Trademark Office between September 11, 2001 and December 1, 2001 via the United States Postal Service.

The aforementioned notice indicates that no fee is required for this petition.

Respectfully submitted,

Dated: May 10, 2002

By

Michael E. Marion
Reg No. 32,266
Attorney
(914) 333-9641

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

SMART &
BIGGAR/FETHERSTONHAUGH
1000 de la GAUCHETIERE WEST
SUITE 3400
MONTREAL QC H3B 4W5 CA CANADA

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SEP 3 0 2003

OFFICE OF PETITIONS

In re Application of
Mark Allaye-Chan et al.
Application No. 10/144,842
Filed: May 15, 2002
Attorney Docket No. 00430-0010
Title: METHOD AND APPARATUS FOR BANDWIDTH OPTIMIZATION IN NETWORK RING TOPOLOGY

DECISION ON PETITION
UNDER 37 C.F.R. §1.137(f)

This is a decision on the petition filed on July 29, 2003, pursuant to 37 C.F.R. §1.137(f), to revive the above-identified application.

A grantable petition pursuant to 37 CFR 1.137(f) must be accompanied by:

(1) Notification of the filing of an application in a foreign country or under a multinational treaty that requires 18 month publication[1];
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m), and;
(3) A statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

Petitioner states that the instant nonprovisional application is the subject of an application filed in either a foreign or an international application on May 15, 2003. However, the United States Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

1 See PTO/SB/36 and paragraph on PTO/SB/64a for further information. Both may be downloaded at http://www.uspto.gov/web/forms/index.html.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §1.22(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) for failure to timely notify the Office of the filing of either a foreign application or an application under a multilateral international agreement that requires publication of applications 18 months after filing.

The petition under 37 C.F.R. §1.137(f) is **GRANTED**.

Petitioner has submitted the notification of either a foreign or an international filing, paid the petition fee, and has made the proper statement of unintentional delay.

The instant petition has been found to be in compliance with 37 C.F.R. §1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. §122(b)(2)(B)(i), filed with the original application papers, has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of November 20, 2003 accompanies this decision on petition.

After this decision is mailed, the application will be forwarded to Technology Center 2600 for further processing.

Telephone inquiries concerning *this decision* should be directed to Attorney Paul Shanoski at (703) 305-0011.

Paul Shanoski

Paul Shanoski
Attorney
Office of Petitions
United States Patent and Trademark Office

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1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON DC 20036

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OFFICE OF PETITIONS

In re Application of	:	
OKAMOTO et al.	:	
Application No. 10/144,859	:	ON APPLICATION FOR
Filed: 05/15/2002	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 020658	:	

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b)" filed September 15, 2008. Applicant requests that the determination of patent term adjustment be increased by 64 days to 956 days. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

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 three 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 three years. See 37 CFR 1.703(b). (This is true even in this instance where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.703(b) calculation until the actual date of issuance of the patent has been determined. Accordingly, it is still too soon to make a determination as to the correctness of any period of adjustment that will or will not be entered pursuant to § 1.703(b)).

Applicant is given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within three years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

It is acknowledged that applicant is correct that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including –
>
> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is noted that a Request for Continued Examination (RCE) was filed in this application on February 14, 2008.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney, Christina Tartera Donnell, at (571) 272-3211.

Kery A. Fries

Kery A. Fries
Senior Legal Advisor
Office Patent Legal Administration

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JOSEPH S. TRIPOLI
THOMSON MULTIMEDIA LICENSING INC.
2 INDEPENDENCE WAY
P.O. BOX 5312
PRINCETON NJ 08543-5312

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JUL 23 2007

OFFICE OF PETITIONS

In re Application of :
Ramaswamy :
Application No. 10/144,880 : ON PETITION
Filed: May 14, 2002 :
Attorney Docket No. PU020099 :
For: VIDEO RECEIVER ARCHITECTURE FOR DIGITAL SUBSCRIBER LINE NETWORKS

This is a decision on the petition under 37 CFR 1.137(b), filed on February 8, 2007, to revive the above-identified application.

This application became abandoned for failure to timely respond to the final Office action mailed February 23, 2006, which set an extendable three month period for reply. No extensions of time being obtained under 37 CFR 1.136(a), the application became abandoned on May 24, 2006 for failure to reply. A Notice of Abandonment was mailed on September 1, 2006.

Applicant has submitted a RCE and $790.00 fee and amendment in reply to the February 23, 2006 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the February 23, 2006 final Office action, and the $1,500.00 petition fee.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 2155 for consideration of the RCE and amendment filed on February 8, 2007.

Telephone inquiries pertaining to this decision may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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HUMAN GENOME SCIENCES INC
9410 KEY WEST AVENUE
ROCKVILLE MD 20850

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OFFICE OF PETITIONS

In re Application of
Ruben et al.
Application No. 10/144,929
Filed: May 15, 2002
For: HUMAN PROTEIN HFXJW48
Attorney Docket No: PZ014P1C2
Pub. No.: US 2003/0069405 A1
Pub. Date: April 10, 2003

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), which was received on May 22, 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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30 ROCKEFELLER PLAZA
NEW YORK NY 10112-3801

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APR 06 2005

OFFICE OF PETITIONS

In re	:
Saito, et al.	: DECISION REGARDING
Application No. 10/144,937	: PATENT TERM ADJUSTMENT
Filed: May 15, 2002	: AND
Patent No. 6,823,132	: NOTICE OF INTENT TO ISSUE
Issued: November 23, 2004	: CERTIFICATE OF CORRECTION

This decision is in response to the "COMMENTS ON DETERMINATION OF PATENT TERM ADJUSTMENT", filed December 13, 2004, requesting correction of the patent term adjustment (PTA) indicated on the patent.

The request is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **zero (0) days**.

On November 23, 2004, the above-identified application matured into U.S. Patent No. 6,823,132. The patent issued with a Patent Term Adjustment of eleven (11) days.

However, as pointed out in the application for patent term adjustment, there was an error in the determination of the PTA.

A review of the file reveals that the Notice of Allowance was mailed on February 27, 2004. However, on April 21, 2004, applicants filed an Information Disclosure Statement (IDS). The Office did not mail a notice in response to the IDS until August 11, 2004. Accordingly, pursuant to 37 C.F.R. § 1.704(c)(10), applicant delay of one hundred thirteen (113) days should have been assessed.

In view thereof, the correct determination of patent term adjustment is **zero (0) days** (77 days of PTO delay, reduced by 179 (113 + 66) days of applicant delay).

Accordingly, issuance of a certificate of correction pursuant to 35 U.S.C. 254 and 37 C.F.R. §1.322 is appropriate.

Give the basis for granting this decision, no fee is required and none has been charged. The Office thanks Patentees for their good faith and candor in bringing this matter 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 the error regarding the patent term information. See 35 U.S.C. 254 and 37 C.F.R. §1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **zero (0) days**, subject to any disclaimers.

Telephone inquiries specific to this letter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: draft Certificate of Correction

PALM INTRANET

Day : Tuesday
Date: 4/5/2005
Time: 12:23:20

PTA Calculations for Application: 10/144937

Application Filing Date:	05/15/2002	PTO Delay (PTO):	77
Issue Date of Patent:	11/23/2004	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	66
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-11		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
45	04/05/2005	ADJUSTMENT OF PTA CALCULATION BY PTO		11	
40	11/23/2004	PATENT ISSUE DATE USED IN PTA CALCULATION	77		36
39	10/07/2004	RECEIPT INTO PUBS			
38	10/05/2004	DISPATCH TO FDC			
37	10/05/2004	APPLICATION IS CONSIDERED READY FOR ISSUE			
36	05/07/2004	ISSUE FEE PAYMENT VERIFIED			
35	10/05/2004	RECEIPT INTO PUBS			
34	08/11/2004	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
33	08/09/2004	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
32	04/21/2004	REFERENCE CAPTURE ON IDS			
31	04/21/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
30	07/06/2004	RECEIPT INTO PUBS			
29	06/15/2004	WORKFLOW - QUERY REQUEST - FINISH			
28	05/27/2004	ISSUE FEE PAYMENT RECEIVED			
27	05/04/2004	WORKFLOW - QUERY REQUEST - BEGIN			
26	03/24/2004	RECEIPT INTO PUBS			
25	03/19/2004	WORKFLOW - FILE SENT TO CONTRACTOR			
24	02/27/2004	MAIL NOTICE OF ALLOWANCE			
23	02/18/2004	ISSUE REVISION COMPLETED			
22	02/18/2004	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
21	02/18/2004	CASE DOCKETED TO EXAMINER IN GAU			
20	02/18/2004	NOTICE OF ALLOWABILITY			

19	01/28/2004	DATE FORWARDED TO EXAMINER			
18	12/31/2003	AMENDMENT AFTER FINAL REJECTION			
17	10/06/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		66	13
16	10/27/2003	MAIL FINAL REJECTION (PTOL - 326)			
15	10/25/2003	FINAL REJECTION			
14	08/20/2003	DATE FORWARDED TO EXAMINER			
13	08/01/2003	RESPONSE AFTER NON-FINAL ACTION			
12	08/01/2003	NEW OR ADDITIONAL DRAWING FILED			
11	03/26/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	05/01/2003	MAIL NON-FINAL REJECTION			
9	04/30/2003	NON-FINAL REJECTION			
8	03/03/2003	CASE DOCKETED TO EXAMINER IN GAU			
7	09/12/2002	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
6	07/29/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
5	08/07/2002	CASE DOCKETED TO EXAMINER IN GAU			
4	06/26/2002	APPLICATION DISPATCHED FROM OIPE			
3	06/21/2002	APPLICATION IS NOW COMPLETE			
2	05/28/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	05/15/2002	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09-02-09

TO SPE OF : ART UNIT 1647

SUBJECT : Request for Certificate of Correction for Appl. No.: 10144958 Patent No.: 7479545

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

A Green

Angela Green

Certificates of Correction Branch

703-756-1541

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

[signature] 1647

SPE **Art Unit**

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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OFFICE OF PETITIONS

Arnold & Porter LLP (24126)
Attn: IP Docketing Dept.
555 Twelfth Street, N.W.
Washington DC 20004-1206

In re Patent No. 7,479,545	:	DECISION ON REQUEST
Baker, et al.	:	FOR
Issue Date: January 20, 2009	:	RECONSIDERATION OF
Application No. 10/144,958	:	PATENT TERM ADJUSTMENT
Filed: May 13, 2002	:	NOTICE OF INTENT TO ISSUE
Atty. Docket No.GNE-3330R1C254	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on March 2, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by nine hundred and five (905) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by nine hundred and four (904) days is **GRANTED to the extent indicated herein.**

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on May 14, 2005, and ends on April 23, 2006, the day before the RCE was filed, and is 345 (not 346) days. See 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 904, not 905 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Deposit account 50-4634 will be charged $200.00 for the fee required by 37 CFR 1.18(e). No additional fees are due.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **nine hundred and four (904)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,479,545 B2

DATED : Jan. 20, 2009

INVENTOR(S) : Baker, 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 (597) days

Delete the phrase "by 597 days" and insert – by 904 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Paper No. 6

H. Jay Spiegel
H. Jay Spiegel & Associates
P.O. Box 444
Mount Vernon, Virginia 22121

SEP 18 2002

In re Application of	:	
H. Jay Spiegel	:	
Application No. 10/144,987	:	**DECISION ON PETITION**
Filed: May 15, 2002	:	**TO MAKE SPECIAL**
Attorney Docket No. HJS-16	:	

This is a decision on the petition under 37 C.F.R. § 1.102, filed June 18, 2002, to make the above-identified application special.

The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02, Item VIII: Accelerated Examination.

The petition complies with M.P.E.P. § 708.02, Item VIII: Accelerated Examination, in that it is accompanied by (a) the required petition fee of $130.00, (b) a statement that all claims are directed a single invention or an offer to make an oral election without traverse should the Patent and Trademark Office hold that the claims are not directed to a single invention, © a statement that a pre-examination search has been made by the inventor, attorney, agent, or professional searchers, etc., the field of search was also provided, (d) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims, and (e) a detailed description of the submitted references and discussions pointing out how the claimed subject matter distinguishes over these references.

For the above stated reasons, the petition is GRANTED.

The application file is being forwarded to the examiner for expedited prosecution.

If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the

application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that he/she is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

The petition is granted to the extent indicated.

Henry Phan

Hien H. Phan, Special Program Examiner
TC 2800 - Semiconductor, Electrical and
Optical Systems and Components

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/145,009	05/14/2002	Edward Litwinski	38190.234772	7847

826 7590 02/05/2004

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

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JUN 0 3 2005
PATENT & TRADEMARK OFFICE

EXAMINER
STONER, KILEY SHAWN

ART UNIT	PAPER NUMBER
1725	

DATE MAILED: 02/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10/145,009	5/14/02	Litwinski	38190.234772

EXAMINER
Stoner

ART UNIT	PAPER
1725	20040203

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

Inventorship

In view of the papers filed 10-2-03, 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(c). The inventorship of this application has been changed by the addition of Steven G. Keener as an inventor.
The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of the file jacket and PTO PALM data to reflect the inventorship as corrected.

Kiley Stoner A.U. 1725
Kiley Stoner 2/3/04

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

SCHERING-PLOUGH CORPORATION
PATENT DEPARTMENT (K-6-1, 1990)
2000 GALLOPING HILL ROAD
KENILWORTH, NJ 07033-0530

COPY MAILED
OCT 0 2 2006
OFFICE OF PETITIONS

In re Application of :
Dalie, et al. :
Application No. 10/145,014 : PATENT TERM ADJUSTMENT
Filed: May 14, 2002 :
Dkt. No.: JB0601QD :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed August 1, 2006.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application, mailed May 12, 2006, indicated that the patent term adjustment (PTA) to date is 221 days. The instant application for patent term adjustment was timely filed August 1, 2006. Applicants argue the application is entitled to an additional adjustment of 96 days and an overall adjustment of 317 days.

Applicants herein have not disputed the PTA accorded to date (221 days). Instead, the instant application for PTA requests reconsideration of the PTA as it relates to the Office's failure to issue the patent within three years of the filing date of the application. 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 for Office failure to issue the patent within three years. *See*, 37 CFR 1.703(b).

Applicants are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the PTA for Office failure to issue the patent within three 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 PTA indicated in the patent, all requirements of 37 CFR 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 are reminded that if an application is entitled to an adjustment under 35 USC 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 USC 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 USC 154(b)(1)(B) in determining whether periods of delay overlap under 35 USC 154(b)(2)(A).

Thus, any days of delay for Office issuance of the patent more than three years after the filing date of the application that overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. *See*, 35 USC 154(b)(1)(B), 35 USC 154(b)(2)(A), and 37 CFR § 1.703(f). *See, also, Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004).

The Office acknowledges receipt of the required application fee of $200.00. No additional fee will be required if applicants are solely requesting reconsideration of additional time related to failing to issue the patent within three years in accordance with 37 CFR 1.702(b).

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.

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

SEP 14 2007

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HELLER EHRMAN LLP
275 MIDDLEFIELD ROAD
MENLO PARK CA 94025-3506

In re Patent No. 7,067,636 DESNOYERS et al Issue Date: June 27, 2006 Appl No.: 10/145,016 Filed: October 18, 2001 For: Correction of Inventorship	**DECISION GRANTING PETITION** *37 CFR 1.324*

This is a decision on the petition filed September 5, 2007, 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.

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

DATE: September 13, 2007
TO: Certificates of Correction Branch
FROM: William R. Dixon, Jr.
Technology Center 1600
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 7,067,636 as specified on the attached Certificate.

William R. Dixon, Jr.
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 7,067,636
Patented: June 27, 2006

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

Luc Desnoyers
Audrey Goddard
Paul J. Godowski
Austin Gurney
William I. Wood
Ellen Filvaroff

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5/16/07

Paper No.: _____

TO SPE OF : **Technology Center** 3729

10/145021

SUBJECT : Request for Certificate of Correction on Patent No.: 7114251 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:

Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**

If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Elisha Evans

Thank You For Your Assistance

Certificates of Correction Branch

Tel. No. 703-308-9390 EXT 110

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments:

PETER VO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

SPE **Art Unit**

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Paper No. 11

FISH & RICHARDSON
1425 K STREET, N.W., 11TH FLOOR
WASHINGTON DC 20005-3500

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NOV 07 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of
Shou Nagao et al
Application No. 10/145,033
Filed: May 15, 2002
Attorney Docket No. 12732-103001

This is a decision on the petition, filed November 7, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 2, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to 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 2826 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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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 12

Date : November 7, 2003

TO : Director, Office of Publication and Dissemination

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Shou Nagao et al
Application No. : 10/145,033
Filed : May 15, 2002

The above-identified application has been assigned Patent No. 6,646,476 and an issue date of November 11, 2003.

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 November 11, 2003:

> "All reference to Patent No. 6,646,476 to Shou Nagao et al of Japan for PULSE OUTPUT CIRCUIT, SHIFT REGISTER, AND DISPLAY DEVICE appearing in the Official Gazette of November 11, 2003 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: Geraldine Dozier, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis, P/OCS, CM1-6A07
Tamara Greene, Crystal Park 3-908

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APR 11 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVE., N.W.
WASHINGTON DC 20005

In re Application of
David Blythe, et al.
Application No. 10/145,110
Filed: May 15, 2002
For: **SYSTEM, METHOD, AND COMPUTER PROGRAM PRODUCT FOR REAL TIME TRANSPARENCY-BASED COMPOSITING**

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is a decision on the petition filed October 1, 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 January 29, 2004. A Notice of Abandonment was mailed on September 1, 2004.

Petitioner asserts that a proper response was timely filed on July 28, 2004. 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 July 28, 2004.

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. A review of the PTO's Revenue and Accounting Management (RAM) system finds that the fees for the three month extension of time have already been processed. Once the necessary amendment entry is completed, the file will be forwarded to the examiner for further examination in due course.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

SEP 14 2007

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HELLER EHRMAN LLP
275 MIDDLEFIELD ROAD
MENLO PARK CA 94025-3506

In re Patent No. 7,019,115 DESNOYERS et al Issue Date: March 28, 2006 Appl No.: 10/145,129 Filed: October 18, 2001 For: Correction of Inventorship	**DECISION GRANTING PETITION** *37 CFR 1.324*

This is a decision on the petition filed September 5, 2007, 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.

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

DATE: September 13, 2007
TO: Certificates of Correction Branch
FROM: William R. Dixon, Jr.
Technology Center 1600
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 7,019,115 as specified on the attached Certificate.

William R. Dixon, Jr.
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 7,019,115
Patented: March 28, 2006

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

Luc Desnoyers
Audrey Goddard
Paul J. Godowski
Austin Gurney
William I. Wood
Ellen Filvaroff

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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STEPHEN A. BECKER
MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

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NOV 08 2004

OFFICE OF PETITIONS

In re Patent No. 6,767,675
Issue Date: July 27, 2004
Application No. 10/145,153
Filed: May 15, 2002
Attorney Docket No. 57454-573

ON PETITION

This is a decision on the petition filed September 3, 2004, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct the assignee's data on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

The matter is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] See Official Gazette of June 22, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

AUG 18 2004

In re Application of Schlenoff, Joseph B. Serial No. 10/145161 Filed: May 14, 2002 For: APPARATUS FOR CAPILLARY ELECTROPHORESIS AND ASSOCIATED METHOD	: : : : : : :	NOTICE OF WITHDRAWAL FROM ISSUE UNDER 37 CFR 1.313(b)

The above-identified application is withdrawn from issue after payment of the issue fee due to reopening of prosecution. See 37 CFR 1.313 (b).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquiries should be directed to Jill Warden (571) 272-1267.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Allen, Dyer, Doppelt, Milbrath & Gilchrist, P.A.
Suite 1401
255 South Orange Avenue
P.O. Box 3791
Orlando FL 32802-3791

cc: Allowed Files—Pk3-910

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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AUG 18 2004

In re Application of Schlenoff, Joseph B. Serial No. 10/145161 Filed: May 14, 2002 For: APPARATUS FOR CAPILLARY ELECTROPHORESIS AND ASSOCIATED METHOD	: : : : : : :	NOTICE OF WITHDRAWAL FROM ISSUE UNDER 37 CFR 1.313(b)

The above-identified application is withdrawn from issue after payment of the issue fee due to reopening of prosecution. See 37 CFR 1.313 (b).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquiries should be directed to Jill Warden (571) 272-1267.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Allen, Dyer, Doppelt, Milbrath & Gilchrist, P.A.
Suite 1401
255 South Orange Avenue
P.O. Box 3791
Orlando FL 32802-3791

RECEIVED
OCT 29 2004
OIPE/JCWS

cc: Allowed Files—Pk3-910

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APR 11 2007

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of :
WILDHAGEN, JENS :
Application No. 10/145,164 : DECISION
Filed: May 13, 2002 : ON PETITION
For **BROADCAST RECEIVER WITH** :
ANTENNA/FREQUENCY DIVERSITY

This is a decision on the petition, filed March 13, 2007, under 37 CFR 1.181(a)(3) for consideration of a reference included with an Information Disclosure Statement filed May 13, 2002.

A review of the application file reveals that the information disclosure listing submitted on May 13, 2002, has been considered by the examiner. An initialed Form PTO-1449 was attached to the Miscellaneous Communication mailed March 22, 2007. Attached to this decision is a copy of the initialed Form PTO-1449.

Accordingly, Petitioner's request is **Dismissed as Moot**.

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

Enclosure: Initialed Form PTO-1449

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 DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	DRAWINGS	TOT CLAIMS	IND CLAIMS
10/145,205	05/14/2002	2152	1244	B422-184	11	18	9

26272
ROBIN BLECKER & DALEY
2ND FLOOR
330 MADISON AVENUE
NEW YORK, NY 10017

CONFIRMATION NO. 7689

CORRECTED FILING RECEIPT

OC000000008789954

Date Mailed: 09/13/2002

Receipt is acknowledged of this nonprovisional Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Yasuo Fukuda, Kanagawa, JAPAN;

Domestic Priority data as claimed by applicant

Foreign Applications

JAPAN 155610/2001(PAT) 05/24/2001

If Required, Foreign Filing License Granted 06/14/2002

Projected Publication Date: 11/28/2002

Non-Publication Request: No

Early Publication Request: No

Title

Search method

Preliminary Class

709

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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AMGEN INC.
MAIL STOP 28-2-C
ONE AMGEN CENTER DRIVE
THOUSAND OAKS CA 91320-1799

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MAR 2 2 2007

OFFICE OF PETITIONS

In re Application of
Hosung Min et al.
Application No. 10/145,206
Filed: May 13, 2002
Attorney Docket No. **A-743**

DECISION ON PETITION

This is a decision on the petition filed July 17, 2006 to withdraw the holding of abandonment which is being treated under 37 C.F.R. § 1.181 & MPEP § 1002.02(c)(3)(c).

The petition is **DISMISSED**.

Any request for reconsideration pursuant to § 1.181 must be filed within TWO (2) MONTHS of the date of this decision in order to be considered timely. See 37 CFR §1.181(f). Extensions of time under § 1.136(a) are not permitted.

Petitioner is not precluded from filing a petition to revive pursuant to 37 CFR 1.137.

In response to a Notice of Allowance mailed August 10, 2005, the issue fee transmittal was proffered on November 4, 2005 with an authorization to charge the issue fee in the amount of $1400 and the publication fee in the amount of $300 to deposit account no. 01-0519. Petitioner argues that the Notice of Abandonment mailed June 1, 2006 was sent in error and includes a copy of the post card receipt, date stamped by the USPTO on November 4, 2005 as proof of timely payment of the issue fee.

A review of the file reveals that the issue fee transmittal was timely filed, however, at the time the issue fee transmittal was filed, the balance of petitioner's deposit account no. 01-0519 was only $909.50. The publication fee was deducted at that time but the account balance was insufficient to charge the issue fee thus, the Notice of Abandonment was correct. The issue fee was not timely paid and in view thereof, the showing of record is insufficient to warrant withdrawal of the holding of abandonment.

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: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of
Hosung Min et al.
Application No. 10/145,206
Filed: May 13, 2002
Attorney Docket No. **A-743**

DECISION ON PETITION

This is a decision on the renewed petition filed April 25, 2007 under 37 C.F.R. § 1.181 & MPEP § 1002.02(c)(3)(c), and alternatively under 37 CFR 1.137(b).

The petition to withdraw the holding of abandonment is **DISMISSED**.
The petition to revive under 37 CFR 1.137(b) is **GRANTED**.

In response to a Notice of Allowance mailed August 10, 2005, the issue fee transmittal was proffered on November 4, 2005 with an authorization to charge the issue fee in the amount of $1400 and the publication fee in the amount of $300 to deposit account no. 01-0519 however, the balance in the deposit account was not sufficient and thus the application became abandoned. Accordingly a Notice of Abandonment was mailed June 1, 2006.

Petitioner argued in a petition filed July 17, 2006, that the issue fee was timely paid, that an authorization was given to charge their deposit account and thus that the Notice of Abandonment mailed June 1, 2006 was sent in error. The petition was dismissed in a decision mailed March 22, 2007 because a review of the finance records revealed that at the time the issue fee transmittal was filed, the balance of petitioner's deposit account no. 01-0519 was only $909.50.

Comes now petitioner arguing that a payment to replenish the deposit account was mailed October 31, 2005 but was not credited to the deposit account until November 8, 2005 and that the delay was based on a USPTO change of address for where payments were to be mailed.

While petitioner's arguments have been considered they are not persuasive. Any USPTO change in address would have been published prior to the change. It is the responsibility of the deposit account owner to both maintain the account at adequate levels as well as to know where payments to replenish should be mailed. The issue fee

was not timely paid and in view thereof, the showing of record is insufficient to warrant withdrawal of the holding of abandonment.

With respect to the petition to revive, the petition fee in the amount of $1500.00 has been applied. All other requirements under 37 CFR 1.137(b) having been met, this matter is being referred to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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DIW 10-02

Paper No. 6

TAROLLI, SUNDHEIM, COVELL,
TUMMINO & SZABO L.L.P.
1111 LEADER BUILDING
526 SUPERIOR AVENUE
CLEVELAND OH 44114-1400

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OCT 2 2 2002

OFFICE OF PETITIONS

In re Application of	:	
Jon W. Martin	:	
Application No. 10/145,223	:	DECISION GRANTING PETITION
Filed: 14 May, 2002	:	
Att'y Docket No. TRW(M)4838-1	:	

This is a decision on the petition filed on 14 October, 2002, requesting that the above-identified application, be accorded a filing date of 14 May, 2002.

On 14 May, 2002, the application was filed.

On 14 June, 2002, Initial Patent Examination Division mailed a "Notice of Omitted Items" stating the application had been accorded a filing date, however, Figures 7B-7D as described in the specification appeared to have been omitted. In response, on 1 July, 2002, petitioner filed, inter alia, one (1) sheet of drawings containing Figures 7B-7D. Accordingly, the application was accorded a filing date of 1 July, 2002. On 7 August, 2002, a Notice to File Missing Parts of Nonprovisional Application was mailed, stating that the application had been accorded a filing date of 1 July, 2002, and requiring an oath or declaration covering the omitted item(s).

In response, on 14 October, 2002, the present petition was filed. Petitioner now requests that the application be accorded the original filing date of 14 May, 2002, without Figures 7B-7D.

The mailing of a "Notice of Omitted Items" permits the applicant to either: (1) promptly establish prior receipt in the PTO of the drawing(s) at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing drawings were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An

applicant desiring to submit the omitted drawings in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted drawing(s) with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such drawing(s) and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the "Notice of Omitted Items" (37 CFR 1.181(f)).

As petitioner supplied the omitted drawings without establishing prior receipt thereof in the USPTO, the application was properly accorded a filing date of the date the omitted drawings were filed. Nevertheless, as a complete application was present on 14 May, 2002, on petition, the application as filed is entitled to a filing date of 14 May, 2002.

The petition fee of $130.00 will be charged to counsel's deposit account. Additionally, as petitioner did not respond to the Notice to File Missing Parts mailed on 7 August, 2002, within the two (2) month period for reply, a one (1) month extension of the time for reply is due. The $110.00 fee will be charged to counsel's deposit account. A total of $240.00 will be charged to counsel's deposit account, No. 20-0090.

The application will be reprocessed using only the application papers present on filing. The drawings supplied on 1 July, 2002, will not be used for processing or examination, but will be retained in the application file.

The application is being returned to Initial Patent Examination Division for reprocessing with a filing date of 14 May, 2002, using the application papers filed on 14 May, 2002, and for an indication in Office records that five (5) sheets of drawings were present on filing.

Telephone inquires 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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United States Patent and Trademark Office
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44th Floor
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OFFICE OF PETITIONS

In re Application of
Jeffrey J. Russell et al.
Application No. 10/145,263
Filed: May 13, 2002
Attorney Docket No. 067004.0133

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed 08 January 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed 16 April 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on 17 July 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a response to office action mailed on 16 April 2007, (2) the petition fee of $1,540.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Allen C. Ho at (571) 272-6052.

This application is being referred to Technology Center AU 3691 for appropriate action by the Examiner in the normal course of business on the reply received 08 January 2008.

David Bucci
Petitions Examiner
Office of Petitions

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OCT 14 2009

OFFICE OF PETITIONS

In re Application of :
Russell, et al. :
Application No. 10/145,263 :
Filed: May 13, 2002 :
Attorney Docket No. AP33393// 007131.00421 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 3, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely respond to the final Office action mailed April 21, 2008, which set an extendable three month period for reply. No extensions of time under 37 CFR 1.136(a) being obtained and no reply being timely filed, this application became abandoned on July 22, 2008.

Applicants have submitted a RCE and required $810.00 fee, $156.00 in claim fees, and an amendment as the submission in reply to the April 21, 2008 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the April 21, 2008 final Office action, and the $1,620.00 petition fee.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, practitioner 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, practitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be

submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

After the mailing of this decision the application will be forwarded to Technology Center AU 3691 for consideration of the RCE and amendment filed on September 3, 2009.

Telephone inquiries pertaining to this decision may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: BINAL J. PATEL
10 SOUTH WACKER DR., SUITE 3000
CHICAGO IL 60606

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)
6742684	2004-06-01	10145272	2002-05-14	2075-3-04

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	/Harry S. Lee/	Date (YYYY-MM-DD)	2009-05-22
Name	Harry S. Lee	Registration Number	56814

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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In re Patent No. 6742684
Issue Date: June 1,2004
Application No. 10145272
Filed: May 14,2002
Attorney Docket No. 2075-3-04

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 22,2009 ,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 22,2009 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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HEWLETT PACKARD COMPANY
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INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

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AUG 05 2009

OFFICE OF PETITIONS

In re Application of	:	
Khieu et al.	:	
Application No. 10/145,328	:	DECISION ON PETITION
Filed: May 13, 2002	:	
Attorney Docket No. 100202888-1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 23, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 24, 2008. Accordingly, the application became abandoned on December 25, 2008. A Notice of Abandonment was mailed May 13, 2009.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item 1.

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), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

The Examiner has responded to the Amendment After Final with an Advisory Action (copy enclosed).

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

Additionally, petitioner's deposit account has been charged the petition fee of $1,620.00 as authorized June 23, 2009.

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 Joan Olszewski at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

Enclosure: Examiner's Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. *10/145,328*	Applicant(s) KHIEU ET AL.	
	Examiner JEFFERY WILLIAMS	Art Unit 2437	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 June 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: _____. (See 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:
   Response to Arguments

Applicant's arguments filed 6/23/09 have been fully considered but they are not persuasive.

Applicant essentially argues that:

"Turning to the claim limitations, Ylonen first does not actually disclose a network printing device generating "a public/private key pair". Although the Examiner correctly pointed out that Ylonen discloses a network device generating its own "device identifier," that identifier is not a public/private key pair, or even a public key for that matter. As explicitly indicated by Ylonen, the "device identifier" is "a value derived from a cryptographic public key." Ylonen, column 6, lines 40-41 (emphasis added). Therefore, the identifier is not the public key itself, and certainly does not comprise both a public key and its associated private key."

Examiner responds:

It is noted that the prior art clearly discloses that a device generates its own identifier, which may be a RSA public key (Ylonen, 4:45-47, 6:41,42,47,48). Furthermore, it is noted that public key cryptography requires a public key and the associated private key. A generated public key must have an associated generated private key. Thus, Ylonen discloses the recited "public/private key pair".

Applicant essentially argues that:

"Second, Ylonen does not in fact disclose the network printing device "exposing the public key for retrieval by a remote network management protocol tool". As identified above, Ylonen does not describe the network printing device generating a public key. Instead, Ylonen only describes a network device generating a "device identifier," which is derived from a public key. Moreover, although Ylonen describes a network device sending its device identifier to the management station, this action is not the

/Jeffery Williams/
Examiner, Art Unit 2437

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OFFICE OF PETITIONS

In re Application of	:	
Khieu et al.	:	
Application No. 10/145,328	:	DECISION ON PETITION
Filed: May 13, 2002	:	
Attorney Docket No. 100202888-1	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed October 5, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action mailed September 24, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, the application became abandoned on December 25, 2008. A Notice of Abandonment was mailed May 13, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and fee of $540.00; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

Petitioner has also filed an appeal brief under 37 CFR 41.37 accompanied by the $540.00 fee required by 37 CFR 41.20(b)(2).

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

The file is now being referred to Technology Center 2437 for processing of the Appeal Brief filed with the instant petition.

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

DEC - 1 2003

Paper No. 16

In re Application of
Dennis W. Crabtree *et al*
Application No. 10/145,341
Filed: May 14, 2002
Attorney Docket No. 50068

: DECISION ON PETITION

This is a decision on the petition filed on October 16, 2003 by which petitioners request withdrawal of the finality of the Office action dated August 19, 2003. No fee is required for the petition.

The petition is dismissed.

Petitioner alleges that the examiner has changed the grounds for rejection. Petitioners further allege that the new ground of rejection could have been asserted earlier. Petitioners conclude, therefore, that the finality of the Office letter in question was premature.

A review of the record shows that the Office letter in question, paper No. 11, is a first action final rejection that was promulgated after the filing of a 37 CFR 1.114 Request for Continued Examination (RCE), and is the second final rejection promulgated in this application. The record also shows that not only are the claims examined and rejected in paper No. 11 and the claims examined and rejected in paper No. 8, (the prior final rejection which is dated April 8, 2003), **identical**, the two Office actions contain **identical** statements of the grounds upon which the claims were rejected. Paper Nos. 8 and 11 differ solely in the sections containing a response to the arguments presented by petitioners, the arguments addressed in paper No. 11 having been presented in paper No. 10 with respect to rejection in paper No. 8, and the arguments presented in paper No. 7 having been presented with respect to the non-final rejection made in paper No. 5, dated October 23, 2002. Further, the record shows that the rejections set forth in paper No. 5 relied upon exactly the same prior art and statutory bases for applying that prior art as did the two subsequent final rejections. Finally, the record shows that the arguments traversing the prior art rejections advanced in paper No. 5 and the arguments traversing the identical prior art rejections advanced in paper No. 8 contain different points of argument.

It is axiomatic that an examiner must reply to all arguments advanced by an applicant in response to a rejection. See 37 CFR 1.104 and 1.112; see also MPEP § 707 *et seq*, and in particular, MPEP § 707.07(f). It would also appear to be axiomatic that an examiner cannot anticipate an argument that will be advanced by an applicant, but has not been so advanced, when in fact the claims have been rejected on a given grounds of rejection **and that argument was not in fact made in response to that rejection**. This is precisely the case here; in paper No. 7, petitioners' response to the prior art rejections in paper No. 5 presented certain arguments that did **not** include arguments that petitioners later presented in paper No. 10 which contained their response to the identical prior art rejections as set forth in paper No. 8. Since the prior art rejections were essentially the same in both paper No. 5 and paper No. 8, it is not surprising that the examiner did not anticipate that petitioners had not advanced all applicable arguments relating to those rejections when responding to the paper No. 8 as part of the RCE filed on April 8, 2003. That the examiner replied to the new arguments made in paper No. 10, **as he was required to do**, does not make the examiner's first action final rejection in paper No. 11 improper.

For the foregoing reasons, it appears that the examiner's decision to make the Office action dated August 18, 2003 final was neither arbitrary nor capricious, and that the examiner's first action final rejection was proper under MPEP § 706.07(b) and the previously cited MPEP sections and Federal Regulations. Therefore, the examiner has not abused his discretion in making that action final.

This application is being returned to the Head Supervisory Applications Examiner for proper endorsement of the 37 CFR 1.116 amendment filed on October 156, 2003 into the application file. It is noted that the examiner has already acted on that amendment in an advisory action dated. The instant petition will be endorsed as paper No. 15 with a date of October 16, 2003. The application will thereafter be returned to the 3700 Central Files awaiting timely and proper action with respect to the final rejection dated August 19, 2003. See 37 CFR 1.113 and 1.116. Any renewed petition with respect to this decision must be filed within two months of the date of this decision. The time for filing a proper and timely reply to the August 19, 2003 final rejection will not be stayed by the filing of such renewed petition. See 37 CFR 1.181(f).

PETITION DISMISSED.

E. Rollins-Cross, Director, Patent
Examining Groups 3710 and 3720

Sue Z. Shaper, P.C.
1800 West Loop South
Suite 750
Houston, TX 77027

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HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P O BOX 272400
FORT COLLINS CO 80527-2400

COPY MAILED

APR 26 2004

OFFICE OF PETITIONS

In re Application of	:
Genbao Xu et al	:
Application No. 10/145,360	: DECISION ON PETITION
Filed: May 13, 2002	: UNDER 37 CFR 1.182
Attorney Docket No. 10005093-7	:

This is a decision on the petition under 37 CFR 1.182, filed April 19, 2004, to change the order of inventorship.

The petition is granted.

As requested, the order of inventorship has been changed to:

1. Genbao Xu
2. Zhizang Chen
3. Mark Alan Johnstone
4. John P. Whitlock

A corrected Filing Receipt with the desired order of inventorship accompanies this decision on petition.

This matter is being referred to Technology Center AU 3729 for appropriate action on the concurrently filed amendment in reply to the Office action of April 1, 2004.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FISH & NEAVE IP GROUP
ROPES & GRAY LLP
1251 AVENUE OF THE AMERICAS FL C3
NEW YORK NY 10020-1105

COPY MAILED

JUL 1 8 2006

OFFICE OF PETITIONS

In re Application of	:	
Ginsberg et al.	:	
Application No. 10/145,400	:	ON PETITION
Filed: May 13, 2002	:	
Attorney Docket No. CF-14	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed June 26, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a copy of the applicant's driver's license. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3206. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 3624 for action on the merits commensurate with this decision.

Liana Chase
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

ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

COPY MAILED
OCT 01 2008

In re Application of	:	
Philip M. Ginsberg, et al.	:	
Application No. 10/145,400	:	DECISION ON PETITION
Filed: May 13, 2002	:	TO WITHDRAW
Attorney Docket No. CF-14	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 19, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Ropes & Gray, LLP has been revoked by the assignee of the patent application on April 24, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272- 1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: DEAN P ALDERUCCI
CANTOR FITZGERALD, LP
110 EAST 59TH STREET
(6TH FLOOR)
NEW YORK, NY 10022

UNITED STATES PATENT AND TRADEMARK OFFICE

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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QUARLES & BRADY LLP
ONE SOUTH CHURCH AVENUE, SUITE 1700
TUCSON, AZ 85701-1621

Mail Date: 04/20/2010

Applicant	: Robert M. Stone	: DECISION ON REQUEST FOR
Patent Number	: 7604452	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/145,426	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/14/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1724** 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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TEXAS INSTRUMENTS INCORPORATED
P.O. BOX 655474, M/S 3999
DALLAS TX 75265

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MAY 15 2006

OFFICE OF PETITIONS

In re Application of	:	
Ruben A. Rolda Jr., et al	:	
Application No. 10/145,442	:	DECISION GRANTING PETITION
Filed: May 14, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. TI-32198	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 12, 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 (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection of June 13, 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 2822.

Karen Creasy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5-26-06

TO SPE OF : ART UNIT 1646

SN 10145481

SUBJECT : Request for Certificate of Correction on Patent No.: 6770272

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

The patent should read as shown in the certificate of correction. No new matter has been introduced.

Gary B Nickel
SPE

1646
Art Unit

FISH & RICHARDSON P.C.

SUBSTITUTE FORM PTO/SB/44 (5-03)

Staple Here Only

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,770,272

DATED : AUGUST 3, 2004

INVENTOR : STROM ET AL.

It is certified that an error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Cover Page:

Item [56] References Cited, Other Publications, The Merck Manual: insert --&-- after "Diagnosis"; delete "." after "17th"; insert date --1999-- after "Berkow"

Item [56] References Cited, Other Publications, Capon et al.: insert --,-- after "Nature"

Item [56] References Cited, Other Publications, Duncan, et al.: delete "IgC" and insert --IgG--

Item [56] References Cited, Other Publications, Hsu, et al.: delete "Different" and insert --Differential--

Item [56] References Cited, Other Publications, Steele, Alan W. et al.: delete "Steele, Alan W. et al., "Structure and function in vitro and in vitro and in in vivo of a family of murine interleukin-2Fc...", J. American So. of Nephr., vol. 4, p. 636 (1993)."

Item [56] References Cited, Other Publications, Traub, e tal.: delete "Traub, e tal. *Interleukin albumin conjugate with conserved biological activity.* J. of General Virology 53:389-392, 1981."

OK to enter PM 6/19/06

MAILING ADDRESS OF SENDER:

John W. Freeman, Esq.
Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110

PATENT NO. 6,770,272

No. of add'l copies

0

MAY 17 2006

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,770,272

DATED : AUGUST 3, 2004

INVENTOR : STROM ET AL.

It is certified that an error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 8, line 39, insert --in-- after "efficacious"

Column 8,line 46, delete "IgO" and insert --IgG--

Column 8, line 48, delete "thither" and insert -- further--

MAILING ADDRESS OF SENDER:

John W. Freeman, Esq.
Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110

PATENT NO. 6,770,272

No. of add'l copies

0

MAY 17 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

DEC 13 2004

Mailed:_____

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Paper Number: ____

In re application of
Roberto A. Capodieci
Serial No. 10/145,487
Filed: May 14, 2002
For: SYSTEM AND METHOD FOR FORMING CEREAL FOOD PRODUCTS:

DECISION ON PETITION

This is a response to the PETITION TO WITHDRAW A HOLDING OF ABANDONMENT, filed March 29, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of December 23, 2003, for failure to timely file a proper response to the Office letter dated February 05, 2003 be withdrawn. The petitioner asserts that the Office letter of February 05, 2003 was not received by applicant.

DECISION

The instant request is accepted as a petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action. See MPEP 711.03(c)(II).

The evidence presented is sufficient to establish that the Office letter of February 05, 2003 was not received by the petitioner. The evidence provided includes a statement by the petitioner that the Office letter of February 05, 2003 was not received, a statement that a search of the file and docket records was made, and a statement that the search revealed the Office letter of February 05, 2003 was not received. Also provided is a copy of the attorney's application docket records where the Office letter of February 05, 2003 would have been posted had it been timely received.

However, a review of the instant application file indicates that the Office letter of February 05, 2003 was mailed to an old correspondence address of the petitioner designated on a copy of the Declaration/Power Attorney from the parent application, which is :

JOHN L. AlEX, ESQ.
LOCKWOOD, ALEX, FITZGIBBON & CUMMINGS
SUITE 1700
THREE FIRST NATIONAL PLAZA
CHICAGO, IL 60602

When the applicant filed the instant application, the applicant did not identify the change in power of attorney or correspondence address as required by 37 CFR 1.63(d)(4). It is noted that in an IDS filed September 11, 2002, a Preliminary Amendment filed January 31, 2003 and a Supplemental IDS filed July 01, 2003, the attorney provided a new address, which is :

JOSEPH M. BARICH
McANDREWS, HELD & MALLOY, LTD
500W. MADISON STREET, 34th FLOOR
CHICAGO, IL 60661

However, the mere inclusion, in the above papers filed in the instant application for another purpose, of an address differing from the previously provided correspondence address does not constitute a proper notification of a change in correspondence address. Since it is applicant's responsibility to promptly inform the Office of any change of correspondence address (see MPEP 601.03), and the applicant did not file a notification of mailing address change to the USPTO until July 21, 2003 (i.e. more than 5 months from the mailing date of the Office letter of February 05, 2003), therefore, the request cannot be granted.

The applicant may file a new petition to the Deputy Commissioner for Patent Examination Policy under 37 CFR 1.137(b) to revive the instant abandoned application based on unintentional delay.

Therefore, this application stands abandoned.

The Petition is **DENIED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

JOSEPH M. BARICH
McANDREWS, HELD & MALLOY, LTD
500 WEST MADISON STREET, 34th FLOOR
CHICAGO, IL 60661

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JJGJR.: 06-04

Paper No: 9

SONNENSCHEIN NATH
& ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION
SEARS TOWER
CHICAGO IL 60606-1080

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OFFICE OF PETITIONS

In re Application of
Inaguma :
Application No. 10/145,507 : ON PETITION
Filed: 14 May, 2002 :
Attorney Docket No. 09792909-5382 :

This is a decision on the petition filed on 29 April 2004, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

For the reasons set forth below, the petition as considered under 37 C.F.R.§1.181 is **GRANTED**.

BACKGROUND

The record reflects that:

- it appeared that Petitioner failed to reply timely and properly to the 6 October, 2003, Restriction Requirement, with an express reply period of three (3) months, and so with a reply due absent a request and fee for extension of time on Tuesday, 6 January, 2004;
- a result, the application was deemed abandoned after midnight 6 January, 2004;
- Notice of Abandonment was mailed on 17 March, 2004;
- the instant petition was filed on 29 April, 2004, and therewith Petitioner included, *inter*

alia, copies of: (a) the reply, in the form of an Election, alleged to have been filed on 10 November, 2003, over a 6 November, 2003, certificate of mailing, and (b) Petitioner's date-stamped receipt card evidencing same;

- a review of the file indicates that the filed copy of the Election, date-stamped 10 November, 2003, is in fact contained in the record with a transmittal bearing a certificate of mailing and, were it necessary (though it was not), authorization for a request and fee for extension of time.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

---

[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[3] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[7]

Petitioner has evidenced timely and proper reply to the Office action, and so satisfies the showing as required under 37 C.F.R. §1.181.

CONCLUSION

Because Petitioner satisfied the burdens set forth in Delgar v. Schulyer, the petition under 37 C.F.R. §1.181 hereby is **granted**, and the petition fee is waived.

The file is forwarded to the Technology Center 2600 for further processing 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

---

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[7] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

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NOV 14 2005

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Alexandria, VA 22313-1450
www.uspto.go

WHIRLPOOL PATENTS COMPANY - MD 0750
500 RENAISSANCE DRIVE - SUITE 102
ST. JOSEPH, MI 49085

Paper No. 11

In re Application of
JONES ET AL.
Appl No.: 10/145,509
Filed: May 14, 2002
For: APPLIANCE LIFT TOOL
Attorney Docket Number: US20010225

DECISION GRANTING PETITION
37 CFR 1.181

This application is before the Director of Technology Center 3700 for consideration of the petition under 37 CFR 1.181 for reconsideration of the Notice of Abandonment mailed October 18, 2004 for failure to respond to the office action mailed March 19, 2004. No fee is required for this petition

The petition is granted.

In support of the request, petitioner has submitted a copy of a response, including a certificate of mailing dated June 16, 2004, and a PTO stamped postcard receipt stamped on June 21, 2004.

In view of the above, the Notice of Abandonment mailed October 18, 2004 is hereby vacated and the holding of abandonment is withdrawn. This application is being forwarded to the Technical Support Staff to return the application to an active status and for entry of the amendment. The application will then be forwarded to the examiner for appropriate action.

Summary: Holding of Abandonment Withdrawn.

Richard A. Bertsch, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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OFFICE OF PETITIONS

JORDAN AND HAMBURG LLP
122 EAST 42ND STREET
SUITE 4000
NEW YORK, NY 10168

In re Application of Yasuji Takagi, et al. Application No. 10/145,526 Filed: May 14, 2002 Attorney Docket No. F-7412	: : : : :	ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed May 11, 2006.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before May 10, 2006. This decision precedes the mailing of a Notice of Abandonment.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the requisite issue/publication fee; (2) the petition fee of $1,500; and (3) the required statement of unintentional delay.

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

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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SUGHRUE MION PLLC
2100 PENNSYLVANIA AVENUE NW
SUITE 800
WASHINGTON, DC 20037

COPY MAILED

JAN 12 2006

OFFICE OF PETITIONS

In re Application of	:
Lee Evan Nakamura et al	:
Application No. 10/145,543	: DECISION GRANTING PETITION
Filed: May 15, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. A8485	:

This is a decision on the petition, filed January 11, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 6, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2167 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b) (along with any balance due at the time of payment), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KEYACK,ALBERT
Ballard Spahr Andrews & Ingersoll, LLP
1735 Market Street, 51st Floor
Philadelphia, PA 19103--759

COPY MAILED
SEP 29 2006
OFFICE OF PETITIONS

In re Application of

MARASCO
Application No. 10/145,552
Filed: May 14, 2002
Attorney Docket No. 11583-004

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed May 31, 2006.

The request is **NOT APPROVED**.

A review of the file record indicates that Albert T. Keyack does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the first copied address listed below until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to Monica A. Graves at 571-272-7253.

Amelia Au
Petitions Examiner
Office of Petitions

cc: **John F. Letchford**
Klehr, Harrison, Harvey, Branzburg & Ellers LLp
260 South Broad Street
Philadelphia, PA 19102

cc: **Dominic A. Marasco**
Pharmaceutical Health Management Systems
Newton, PA 18940

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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www.uspto.gov

ADVANCED MATERIALS PRODUCTS, INC.
8180 BOYLE PARKWAY
TWINSBURG, OH 44087

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MAR 2 4 2005

OFFICE OF PETITIONS

In re Application of :
Orest M. Ivasishin et al :DECISION ON PETITION
Application No. 10/145,557 :UNDER 37 CFR 1.137(b)
Filed: May 13, 2002 :
For: MANUFACTURE OF NEAR-NET SHAPE :
TITANIUM ALLOY ARTICLES FROM METAL
POWDERS BY SINTERING AT VARIABLE
PRESSURE

This is a decision on the petition under 37 CFR 1.137(b), filed November 2, 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 items (1), (2) and (3) above.

Turning first to item (3) above, the statement of unintentional delay is not considered at this time to be a properly submitted statement. In this regard, the petition containing the statement of unintentional delay is signed by Mr. Vladimir S. Moxson who is

one of the applicants in the above-identified application. It is further noted that, in a paper filed with the petition, Mr. Moxson is also stated to be the President of ADMA Products, Inc. (Advance Materials Products, Inc.). Petitioner's attention is directed to 37 CFR 1.33(b), which states.

> (b) **Amendments and other papers**. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
> (1) A registered attorney or agent of record appointed in compliance with § 1.34(b);
> (2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);
> (3) An assignee as provided for under § 3.71(b) of this chapter; or
> (4) **All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.**

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment (or other paper) is signed by only one of two applicants and the one signing has not been given a power of attorney by the other applicant.

Therefore, as the petition containing the statement of unintentional delay is not signed by all the inventors and the record herein fails to disclose that petitioner herein (Vladimir S. Moxson) was ever given a power of attorney to act on behalf of the other inventors, **or that he is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b)**, the petition is considered to not contain a proper statement of unintentional delay. As it appears that Mr. Moxson is signing on behalf of an assignee, compliance with 37 CFR 3.73(b) must be satisfied. In this regard, 37 CFR 3.73(b) provides:

> (1) In order to request or take action in a patent or trademark matter, the assignee must establish its ownership of the patent or trademark property of paragraph (a) of this section to the satisfaction of the Director. The establishment of ownership by the

> assignee may be combined with the paper that requests or takes the action. Ownership is established by submitting to the Office a signed statement identifying the assignee, accompanied by either:
>
> (i) Documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment). The documents submitted to establish ownership may be required to be recorded pursuant to § 3.11 in the assignment records of the Office as a condition to permitting the assignee to take action in a matter pending before the Office; or
>
> (ii) A statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).
>
> (2) The submission establishing ownership must show that the person signing the submission is a person authorized to act on behalf of the assignee by:
>
> (i) Including a statement that the person signing the submission is authorized to act on behalf of the assignee; or
>
> (ii) Being signed by a person having apparent authority to sign on behalf of the assignee, e.g., an officer of the assignee.

In view of the above, and as it appears that Mr. Moxson is signing the statement of unintentional delay as an assignee, then compliance with 37 CFR 3.73(b) must be satisfied. A blank certificate under 37 CFR 3.73(b) is enclosed with this decision for petitioner's convenience.

As to item (1) above, the reply is considered defective also for the reasons stated above (that the paper (reply) must be signed by a proper party; i.e., all the inventors or an assignee of the entire interest and, if signed by an assignee of the entire interest, must satisfy the provisions of 37 CFR 3.73(b).

Turning lastly to item (2), petitioner has submitted $665 for the petition fee, whereas, at the time of submission and due to the fee increase of October 1, 2004, the fee for filing a petition under 37 CFR 1.137(b) was $685. However, since the fee increase of October 1, 2004, the fee for filing a petition under 37 CFR

1.137(b) was increased from $685 to $750 on December 8, 2004. Accordingly, a balance of $85 is due for the petition under 37 CFR 1.137(b) must be submitted before any further consideration on the merits of the instant petition will be given.

In sum, petitioner must submit a petition containing a statement of unintentional delay and a reply/amendment to the outstanding Office action of December 15, 2003, which is **(1)** signed by all the inventors, or **(2) unless** petitioner herein is the assignee of the entire right, title and interest in the instant application, then compliance with 37 CFR 3.73(b) must be satisfied, which can be accomplished by completion of the enclosed certificate under 37 CFR 3.73(b) and **(3)** submit the $85 balance due for the petition fee.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Certificate under 37 CFR 3.73(b)

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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ADVANCED MATERIALS PRODUCTS, INC.
8180 BOYLE PARKWAY
TWINSBURG, OH 44087

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MAY 25 2005

OFFICE OF PETITIONS

In re Application of	:	
Orest M. Ivasishin et al	:	
Application No. 10/145,557	:	DECISION GRANTING PETITION
Filed: May 13, 2002	:	UNDER 37 CFR 1.137(b)
For: MANUFACTURE OF NEAR-NET SHAPE TITANIUM ALLOY ARTICLES FROM METAL POWDERS BY SINTERING AT VARIABLE PRESSURE	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed May 13, 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) a proposed reply to the December 15, 2003 non-final Office action; (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 December 15, 2003 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 1742 for appropriate action on the reply to the December 15, 2003 Office action.

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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Paper No. 4

Gregory Scott Smith
Gregory Smith & Associates
3900 Newpark Mall Road, Suite 317
Newark, CA 94560

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DEC 1 2 2003

OFFICE OF PETITIONS

In re Application of	:	
Kenneth Deaton	:	
Application No. 10/145,567	:	ON PETITION
Filed: May 13, 2002	:	
Attorney Docket No. 368-1043U1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 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 Notice to File Missing Parts of Application (Notice) mailed July 5, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 6, 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

Latrice Bond
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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Paper No. 8

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SEP 11 2002
Technology Center 2100

Hamilton, Brook, Smith & Reynolds, P.C.
530 Virginia Road
P.O. Box 9133
Concord, Massachussets 01742-9133

In re Application of: Foster Hinshaw et al.	)	
Application No. 10/145,571	)	**DECISION ON PETITION FOR**
Filed: May 13, 2002	)	**ACCELERATED EXAMINATION**
For: OPTIMIZED DATABASE	)	**UNDER M.P.E.P. §708.02(VIII)**
APPLIANCE	)	

This is a decision on the petition, filed July 17, 2002 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status.
>
> (c) Submits a statement(s) that a pre - examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submission meets all the criteria set out above, accordingly, the Petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in M.P.E.P. §708.02, Section VIII.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Security, Architecture, and Software
(703) 306-4160

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 4

Gregory Scott Smith
Gregory Smith & Associates
3900 Newpark Mall Road, Suite 317
Newark, CA 94560

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DEC 1 2 2003

OFFICE OF PETITIONS

In re Application of	:	
Kenneth Deaton	:	
Application No. 10/145,576	:	ON PETITION
Filed: May 13, 2002	:	
Attorney Docket No. 368-1043U2	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 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 Notice to File Missing Parts of Application (Notice) mailed July 12, 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 September 13, 2003.

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

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
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Paper No. 9

JOHN W. FREEMAN, ESQ.
FISH & RICHARDSON P.C.
225 FRANKLIN STREET
BOSTON MA 02110-2804

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JUL 1 2 2004

OFFICE OF PETITIONS

In re Application of	:
Glucksmann et al	: DECISION ON PETITIONS
Application No. 10/145,586	: UNDER 37 CFR 1.78(a)(3) AND
Filed: May 14, 2002	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 10448-188001/MP102-090	:

This is a decision on the petition filed December 17, 2003, which is being treated 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 365(c) and §119(e) for the benefit of the prior-filed nonprovisional, PCT 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. 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 petition fails to comply with item (1) above.

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See Manual of Patent Examining Procedure, 8th ed., (August 2001), Section 201.11, Reference to First Application. The amendment filed December 17, 2003, do not **clearly** state the relationship of some of the prior-filed applications to the instant application. Also, one of the prior-filed applications is only identified by the filing date.

Accordingly, before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) and a substitute amendment to correct the above matter is required.

Additionally, the Revocation /Power of Attorney submitted September 9, 2002, is not in compliance with 37 CFR 373(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
Post Office Box 1450
Alexandria, Va 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: 2011 South Clark Place
Crystal Plaza Two Lobby
Room 1B03
Arlington, VA 22202

Any questions concerning this matter may be directed to the undersigned at (703) 305-8859.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
MILLENNIUM PHARMACEUTICALS, INC.
ATTN: JEAN M. SILVERI
40 LANDSDOWNE STREET
CAMBRIDGE, MA 02139

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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JOHN W. FREEMAN, ESQ.
FISH & RICHARDSON P.C.
225 FRANKLIN STREET
BOSTON MA 02110-2804

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OCT 19 2004

OFFICE OF PETITIONS

In re Application of	:
Glucksmann et al	: DECISION ON PETITION
Application No. 10/145,586	: UNDER 37 CFR 1.78(a)(3) AND
Filed: May 14, 2002	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 10448-188001/MP102-090	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed August 13, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) 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 May 14, 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 May 14, 2002. The intermediate applications was filed, within twelve months of the provisional applications, 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 365(c) 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 365(c) and § 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 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.

Further, the Revocation/Power of Attorney submitted with the instant petition still does not comply with 37 CFR 3.73(b). See MPEP 324.

Any questions concerning this matter may be directed to Karen Creasy at (571) 272-3208.

The examiner of Technology Center Art Unit 1646 will consider 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 applications.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT : Corrected Filing Receipt

cc:

MILLENNIUM PHARMACEUTICALS, INC.
40 LANDSDOWNE STREET
CAMBRIDGE, MA 02139

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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PAUL D. YASGER
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK IL 60064-6008

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DEC 1 0 2009

OFFICE OF PETITIONS

In re Patent No. 7,589,180 Issue Date: September 15, 2009 Application No. 10/145,598 Filed: May 13, 2002 Attorney Docket No. 9662USO2	: : : : :	DECISION ON PETITION

This is a decision on the Petition Under 37 CFR Section 3.81(b) to Issue Patent to the Correct Assignee, filed June 11, 2009, requesting correction on the Title Page of the subject patent, via issuance of a Certificate of Correction under 37 CFR 1.323, to identify the correct name of assignee. A completed Certificate of Correction Form (PTO/SB/44) was submitted with Petition.

The petition under 37 CFR 3.81 is **GRANTED**.

Petitioner urges that the present Petition was submitted to correct assignee's name on the previously submitted PTOL-85B and that such error was incorrectly on form PTOL-85B. Accordingly, petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of a Certificate of Correction (PTO/SB/44), to add the correct name of the assignee identified thereon from:

"Abbott Laboratories Inc."

to:

-Ludwig Institute for Cancer Research -

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) and the $130.00 processing fee (Fee Code 1464) as set forth under 37 CFR 1.20(a) has previously been submitted. 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 that was submitted with petition.

Inquiries related this communication should be directed to Cheryl Gibson-Baylor 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. 7,589,180.

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

COPY MAILED
MAR 17 2008

STMICROELECTRONICS, INC.
MAIL STATION 2346
1310 ELECTRONICS DRIVE
CARROLLTON TX 75006

In re Application of	:	
McClure	:	
Application No. 10/145,606	:	DECISION
Filed: 9 May, 2002	:	
Attorney Docket No. 96-C-127RE (1678-51-3)	:	

This is a decision on the petition filed on 13 September, 2007, and resubmitted on 9 January, 2008, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to intentional delay.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 6 June, 2007, with reply due under a non-extendable deadline on or before 6 September, 2007;
- the application went abandoned by operation of law after midnight 6 September, 2007;
- it does not appear that the Office mailed the Notice of Abandonment before the instant petition was filed;

- on 13 September, 2007, Petitioner filed the petition averring unintentional delay under 37 C.F.R. §1.137(b) (and fee), with reply in the form of fees due and made the statement of unintentional delay;

- the Office mailed the Notice of Abandonment on 31 December, 2007;

- on 9 January, 2008, Petitioner resubmitted the petition averring unintentional delay under 37 C.F.R. §1.137(b), pointed to the previously paid reply in the form of fees due, and made the statement of unintentional delay, but paid again the petition fee (previously paid), and this latter fee is refunded to Deposit Account 19-1353.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

---

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

See specifically, the regulations at 37 C.F.R. §10.18.

[3] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[5] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[6]

And the Petitioner must be diligent in attending to the matter.[7] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

As to the Allegations
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate—a terminal disclaimer and fee.

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

The instant petition under 37 C.F.R. §1.137(b) is **granted**.

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4 Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

5 See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

6 See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

7 See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

8 Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

The instant application is released to Publications Branch to be processed into a patent in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Technology Center/AU in response to this decision—and it is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[9]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[9] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

Approved for use through 04/30/2009. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6648430	2003-11-18	10145621	2002-05-09	1605.0004C

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

◉ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

A Joint Patentee and I certify that I am authorized to sign this submission on behalf of all the other patentees			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/6648430/Jane M. Rohde/	Date (YYYY-MM-DD)	2008-01-14
Name	Jane M. Rohde		

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. 6648430
Issue Date: November 18,2003
Application No. 10145621
Filed: May 9,2002
Attorney Docket No. 1605.0004C

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed January 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 January 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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/09/08

TO SPE OF : ART UNIT 1600

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/145629** Patent No.: **7285644**

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☑ **Denied** — State the reasons for denial below.

Comments: No amendment was filed on 9/11/02 providing the correct priority information as stated in the Request for Certificate of Correction. An attempt was made to contact Ms. Gao but was told she has left the firm.

6/23/08 — **SPE**

1647 — **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : **April 14, 2008**

TO SPE OF : ART UNIT **1647**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/145630** Patent No.: **7309778 B2**

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comment_____

_____

[signature] 1647
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LOWE HAUPTMAN HAM & BERNER, LLP
1700 DIAGONAL ROAD
SUITE 300
ALEXANDRIA VA 22314.

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DEC 0 4 2008

OFFICE OF PETITIONS

In re Application of	:	
Fransiscus Gerardus Coenradus VERWEG	:	
Application No. 10/145,642	:	DECISION ON PETITION
Filed: May 15, 2002	:	
Attorney Docket No. T4957-B004	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 29, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 17, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 18, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1540 and (3) a proper statement of unintentional delay.

This application has been abandoned for an extended period of time. The U.S. 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 U.S. Patent and Trademark Office).

Telephone inquiries concerning this decision should be directed to Karin Reichle at (571) 272-6051.

This application is being referred to Technology Center AU 2614 for appropriate action by the Examiner in the normal course of business on the reply received July 28, 2008.

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

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OFFICE OF PETITIONS

CHARLES N.J. RUGGIERO, ESQ.
OHLANDT, GREELEY, RUGGIERO & PERLE, L.L.P.
10TH FLOOR
ONE LANDMARK SQUARE
STAMFORD CT 06901-2682

In re Patent No. 6,716,378 :
Issued: April 6, 2004 :
Application No. 10/145,658 :
Filed: May 14, 2002 :
Attorney Docket No. 1279-273C1

This is responsive to the "Petition to Revive Patent Application" filed May 14, 2004.

The petition is **dismissed as moot**.

A review of the application file revealed that application 10/145,658 matured into Patent No. 6,716,378 on April 6, 2004. The petition to revive the application pursuant to 37 CFR 1.137 is moot because the application is no longer pending. There is no remedy under 37 CFR 1.137 that can be provided at this juncture.

The application file is being directed to the Files Repository.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306
Attn: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
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

Miles Yamanaka
FULBRIGHT & JAWORSKI L.L.P.
Twenty-Ninth Floor
865 South Figueroa
Los Angeles CA 90017-2571

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JUL 27 2005

OFFICE OF PETITIONS

In re Patent No. 6,716,378 :
Issued: April 6, 2004 :
Application No. 10/145,658 :
Filed: May 14, 2002 :
Attorney Docket No. 1279-273C1

This is responsive to the "Petition to Revive Patent Application" filed May 14, 2004.

The petition is **dismissed as moot**.

A review of the application file revealed that application 10/145,658 matured into Patent No. 6,716,378 on April 6, 2004. The petition to revive the application pursuant to 37 CFR 1.137 is moot because the application is no longer pending. There is no remedy under 37 CFR 1.137 that can be provided at this juncture.

The application file is being directed to the Files Repository.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306
Attn: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MOTOROLA INC
600 NORTH US HIGHWAY 45
ROOM AS437
LIBERTYVILLE, IL 60048-5343

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AUG 3 1 2005

OFFICE OF PETITIONS

In re Application of :
Rye and Ramsden :
Application No.: 10/411,809 :
Filed: May 14, 2002 : ON PETITION
Attorney Docket No. 1279-273C1 :

This is responsive to the petition under 37 CFR 1.137(b) filed July 14, 2005.

The petition is **dismissed as moot**.

A review of the application revealed that a "Notice of Allowance and Issue Fee Due" and "Notice of Allowability" were mailed on May 12, 2005, allowing a non-extendable period for reply of three months from its mailing date. The notices required payment of the issue fee and corrected drawings to be filed, respectively. The issue fee was paid on June 3, 2005, and corrected drawings were filed on July 14, 2005—all within the three-month statutory period set for reply. The application does not appear to be in an abandoned status. There is no relief that can be provided by the instant petition under 37 CFR 1.137(b). The petition is dismissed as moot, accordingly.

Deposit account 50-2117 will be refunded $1500.00 for the petition fee.

The Power of Attorney filed July 14, 2005, is noted and made of record.

The address as cited on the petition differs from the address of record. Although a courtesy copy of this decision os being mailed to the address as cited on the decision, all future correspondence will be mailed solely to the address of record unless appropriate written instructions to the contrary are received.

The application file is being directed to the Office of Patent Publications for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: "Notice of Acceptance of Power of Attorney"

cc:
Philip H. Burrus, IV
Motorola Inc.—Law Department
1700 Belle Meade Court
Lawrenceville, GA 30043

10/1415658

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7-29-05

TO SPE OF : ART UNIT 1731

SUBJECT : Request for Certificate of Correction on Patent No.: 6716378

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:

Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**

If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Should this be Approved

Thank You For Your Assistance

Ennis Young
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:

Note: Palm data needs to be update to reflect the request correction

SPE: [signature]

Art Unit: 1731

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DR. DANIEL P. MORRIS, ESQ.
IBM CORPORATION
INTELLECTUAL PROPERTY LAW DEPT.
P.O. BOX 218
YORKTOWN HEIGHTS NY 10598

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OFFICE OF PETITIONS

In re Application of :
Brian Samuel Beaman et al. :
Application No. 10/145,661 :
Filed: May 14, 2002 :
Attorney Docket No. YOR919990088US2 :

ON PETITION

This is a decision on the petition filed April 28, 2005 (via facsimile transmission) under 37 CFR 1.137 (b) to revive the above-identified application.

The petition is **GRANTED**.

In response to a Final Office Action mailed June 2, 2004, a Notice of Appeal was filed. The above-identified application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 1.17(c)) within the time period provided in 37 CFR 1.192(a). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed September 2, 2004, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.192(b) & 1.197(c). As no claim was allowed, the-above-identified application became abandoned on November 3, 2004. See MPEP 1215.04.

Additionally, an after final amendment with a certificate of mail dated August 26, 2004 were made of record on January 19, 2005. However, in response thereof, an advisory action was mailed February 18, 2005 advising that the January 19, 2005 did not place the application in condition for allowance. The instant petition and this decision on petition precede the mailing of the Notice of Abandonment.

Petitioner has submitted a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

The fees for the petition to revive ($1500.00) and the RCE ($790.00) have been charged to Deposit Account No. 09-0468 as authorized.

The request for continued examination (RCE) of this application under 37 CFR 1.114 is being forwarded to Technology Center 2829 for processing.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DR. DANIEL P. MORRIS, ESQ.
IBM CORPORATION –IP LAW DEPT.
P.O. BOX 218
YORKTOWN HEIGHTS, NY 10598

MAILED

MAY 14 2009

OFFICE OF PETITIONS

In re Application of :
Brian S. BEAMAN, et al. :
Application No. 10/145,661 :
Filed: May 14, 2002 :
Attorney Docket No. **YOR919990088US2** :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed January 29, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed June 26, 2008, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on August 27, 2008. *See* MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an appeal brief/appeal fee; (2) the petition fee of $1620; and (3) an adequate statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $2350 extension of time fee submitted with the petition on January 29, 2009 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

The application is being referred to Technology Center Art Unit 2829 for consideration of the appeal brief filed January 29, 2009.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

Brian W. Brown
Petitions Examiner
Office of Petitions

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M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE CA 95131

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FEB 26 2008

OFFICE OF PETITIONS

In re Application of	:	
Michael **KOHLMANN**	:	
Application No. 10/145,667	:	DECISION ON PETITION
Filed: May 15, 2002	:	
Attorney Docket No. **PHDE 010139**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 11, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed October 31, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). Accordingly, the application became abandoned on February 01, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 2611 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

David Bucci
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Michael Kohlmann
Application No. 10/145,667
Filed: May 15, 2002
Attorney Docket No DE010139US

ON PETITION AND NOTICE OF ABANDONMENT

This is a decision on the petition under 37 CFR 1.47(b) filed October 22, 2008.

The petition is **dismissed**.

The application is also noted as **abandoned.**

Reference is made to the declaration under 37 CFR 1.63 filed June 21, 2007, which is being treated as renewed petition under 37 CFR 1.47(a).

A review of the application file history reveals that a Notice to File Missing Parts of Non-Provisional Application was mailed on June 20, 2002, requiring an executed declaration and payment of the a surcharge. On August 6, 2002, a communication was filed indicating that it was responsive to the Notice to File Missing Parts of Nonprovisional Application. The surcharge is of record, yet no properly executed declaration under 37 CFR 1.63 or petition under 37 CFR 1.47 was found with the papers filed August 6, 2002. After the examiner's request for the properly executed declaration, petitioner now files the petition under 37 CFR 1.47.

The petition under 37 CFR 1.47(b) cannot be considered on its merits because the application is abandoned for failure to file a timely and proper response to the Notice to File Missing Parts of Nonprovisonal Application. Petitioner must either file a petition under 37 CFR 1.137 with appropriate fee, or petitioner may file a petition to withdraw the holding of abandonment if petitioner is able to establish that a properly executed declaration or petition under 37 CFR 1.47 was filed prior to the expiration of the period set for reply by the Notice to File Missing Parts of Nonprovisional Application.

Further correspondence regarding this matter may be addressed to the following:

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300

Questions regarding this communication may be directed to the undersigned at (571) 272-3222.

K. A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVENUE, SUITE 5400
SEATTLE WA 98104-7092

In re Application of
Michael Kohlmann
Application No.: 10/145,667
Filed: May 15, 2002
Attorney Docket No. DE010139US
FOR: **METHOD AND DEVICE FOR SYNCHRONIZING A RADIO TRANSMITTER WITH A RADIO RECEIVER**

:DECISION ON PETITION
: UNDER 37 CFR 1.137(b) AND
: DECISION NOTING JOINDER
:
:

This is a decision on the petition under 37 CFR 1.137(b) filed February 3, 2009. This is also a decision noting the joinder of inventor Kohlmann in the above-cited application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

A review of the application file history reveals that a Notice to File Missing Parts of Non-Provisional Application was mailed on June 20, 2002, requiring an executed declaration and payment of the a surcharge. On August 6, 2002, a communication was filed indicating that it was responsive to the Notice to File Missing Parts of Nonprovisional Application. The surcharge is of record, yet no properly executed declaration under 37 CFR 1.63 or petition under 37 CFR 1.47 was found with the papers filed August 6, 2002. After the examiner's request for the properly executed declaration, petitioner filed a petition under 37 CFR 1.47 on October 22, 2008. The petition was dismissed by a decision mailed November 10, 2008, and the application was noted as abandoned for failure to file a timely response to the Notice to File Missing Parts of Non-Provisional Application.

The instant petition was accompanied by an executed declaration for the previously non-signing sole inventor. In view of the joinder of the inventor, further consideration under 37 CFR 1.47(b) is not necessary. This application does not have any Rule 1.47(b) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(b).

The Manual of Patent Examining Procedure ("MPEP"), § 409.03(j) provides that "[i]n the event the previously non-signing inventor decides to join the application by filing an executed oath or declaration complying with 37 CFR 1.63, the oath or declaration will be placed in the application file."

Accordingly, the declaration executed by the sole inventor is noted and made of record.

This application is being directed to the Office of Data Management 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

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OFFICE OF PETITIONS

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NXP INTELLECTUAL PROPERTY DEPARTMENT
M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE, CA 95131

In re Application of	:	
Van Den Hamer, et al.	:	
Application No. 10/145,677	:	DECISION ON PETITION
Filed: May 15, 2002	:	
Attorney Docket No. NL010315	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 12, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to file a timely and proper reply to the final Office action mailed November 3, 2005, which set a three (3) month shortened statutory period for reply. A response was received on December 15, 2005. The response did not place the application in condition for allowance as per an Advisory Action mailed January 17, 2006. A Notice of Abandonment was mailed on July 21, 2006.

The Notice of Appeal, filed March 12, 2007, has been entered and made of record. Accordingly, the two-month period for filing an appeal brief (accompanied by the fee required by 37 CFR 1.17(c)) runs from the date of this decision.

Deposit account 50-4019 will be charged $1500.00 for the instant petition fee.

The application file 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of :
Van Den Hamer, et al.
Application No.: 10/145,677 : ON PETITION
Filed: May 15, 2002 :
Attorney Docket No: NL010315 :

This is in response to the petition under 37 CFR 1.137(b) filed April 28, 2009.

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 application became abandoned on October 7, 2007, for failure to file a timely appeal brief following the filing of a Notice of Appeal. A Notice of Abandonment mailed November 13, 2007.

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition does not satisfy the requirements of item (3) above.

As to Item (3), the *Manual of Paten Examining Procedure*, Section 711.03(c) provides, in pertinent part, that:

> Where a petition pursuant to 37 CFR 1.137(a) is not filed within 1 year of the date of abandonment of the application (note that abandonment takes place by operation of law, rather than by the mailing of a Notice of Abandonment) the Office will require:
>
> (A) further information as to when the applicant (or applicant's representative) 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 (or applicant's representative) (see *Pratt*, 1887 Dec. Comm'r Pat. at 32-33).
>
> Where a petition pursuant to 37 CFR 1.137(b) is not filed within 1 year of the date of abandonment of the application (note that abandonment takes place by operation of law, rather than by the mailing of a Notice of Abandonment), the Office may require:
>
> (A) further information as to when the applicant (or the applicant's representative) 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 (or applicant's representative).
>
> To avoid delay in the consideration of the merits of a petition under 37 CFR 1.137(b) 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.

While the instant petition was filed within three months of the mailing of Notice of Abandonment, the subject application has been abandoned for more than one year. Accordingly, the renewed petition must be accompanied by an explanation for said delay including, but not limited to, the considerations provided in MPEP § 711.03(c) cited above.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

Further correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop Petitions
Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:
Mark A. Wilson
PMB 348
2530 Berryessa Road
San Jose, CA 95132

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In re Application of :
Van Den Hamer, et al.
Application No.: 10/145,677 : ON PETITION
Filed: May 15, 2002 :
Attorney Docket No: NL010315 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed January 8, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on October 7, 2007, for failure to file a timely appeal brief following the filing of a Notice of Appeal. A Notice of Abandonment mailed November 13, 2007.

The appeal brief filed April 28, 2009, is noted.

The application file 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4-25-08

TO SPE OF : ART UNIT 1647

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/145755 Patent No.: 7312312

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the COCIN document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Should Cofc be Approved

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Emma Yang
Certificates of Correction Branch
703-308-9390 ext. 117

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ Approved — All changes apply.
- ☐ Approved in Part — Specify below which changes do not apply.
- ☐ Denied — State the reasons for denial below.

Comments: _____

SPE

1647
Art Unit

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WOODS FULLER SHULTZ & SMITH P.C.
ATTN: JEFFREY A. PROEHL
P.O. BOX 5027
SIOUX FALLS SD 57117

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OCT 21 2008

OFFICE OF PETITIONS

In re Patent No. 6,758,496	:	
Issue Date: July 6, 2004	:	
Application No. 10/145,775	:	DECISION ON PETITION
Filed: May 15, 2002	:	
Attorney Docket No. 21-1260	:	

This is a decision on the petition under 37 CFR 1.378(c), filed October 10, 2008, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on July 7, 2008 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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 request to change the address of record should be filed. Petitioner should note that a change of correspondence address would not affect the fee address. Therefore, if petitioner desires to receive future correspondence, which **may** be mailed regarding maintenance fees for the above-identified patent, the "fee address" and/or "customer number" forms should be submitted. 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 Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Wanda F. Coriz
1850 Kellerton Dr.
Hacienda Hts., CA 91745

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.

PET DEC

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/145,797
Filing Date	May 14, 2002
First Named Inventor	Orit ALBECK-MAROM
Art Unit	1743
Examiner Name	Lyle Alexander
Attorney Docket Number	174.1030

OIPE
MAY 16 2005
PATENT & TRADEMARK OFFICE

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Approved 7/13/05
JMStone
Jacqueline M. Stone, Director
Technology Center 1700

Please withdraw me as attorney or agent for the above identified patent application, and

☐ all the attorneys/agents of record.

☐ all the attorneys/agents (with registration numbers) listed on the attached paper(s), or

☒ all the attorneys/agents associated with Customer Number 23280

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: Applicant has retained another attorney to represent her, as evidenced by the Associate Power of Attorney and Correspondence Address Indication form executed January 5, 2005.

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	Edward Langer c/o Shiboleth, Yisraeli, Roberts, Zisman & Co.				
Address	350 Fifth Avenue 60th Floor				
City	New York	State	NY	ZIP	10118
Country	U.S.A.				
Telephone	(212) 244-4111	Fax	(212) 563-7108		
Signature	Morey B. Wildes				
Name	Morey B. Wildes	Registration No.	36,968		
Date	May 5, 2005	Telephone No.	(212) 736-1940		

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.

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United States Patent and Trademark Office
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Mailed: 2-1-06

In re application of	:	
Albeck-Marom	:	DECISION ON
Serial No. 10/145,797	:	PETITION
Filed: May 14, 2002	:	
For: FLUID TESTER		

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION mailed October 12, 2005.

On February 4, 2005, a non-final office action was mailed by the examiner in response to an RCE filed by applicant. All pending claims were rejected. A response was filed on July 28, 2005 which included a declaration under Rule 132. Various amendments were also made to the claims. The examiner again rejected all of the claims and made the next action a final office action. In the final office action, the examiner stated that the new grounds of rejection were necessitated by applicant's amendments to the claims.

On December 27, 2005 the instant petition under 37 CFR 1.181 was filed to formally request the withdrawal of finality of the October 12, 2005 office action.

Applicant's position for the withdrawal of the finality is that no clear issue as been established between the examiner and applicants prior to the final rejection. It is also the position of applicant that the office action contains a technical inaccuracy, the examiner has relied on hindsight and has used an arbitrary combination of references.

DECISION

Section 706.07 of the MPEP states:

Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

Before final rejection is in order a clear issue should be developed between the examiner and applicant. To bring the prosecution to as speedy conclusion as possible and at the same time to deal justly by both the applicant and the public, the invention as disclosed and claimed should be thoroughly searched in the first action and the references

fully applied; and in reply to this action the applicant should amend with a view to avoiding all the grounds of rejection and objection. Switching from one subject matter to another in the claims presented by applicant in successive amendments, or from one set of references to another by the examiner in rejecting in successive actions claims of substantially the same subject matter, will alike tend to defeat attaining the goal of reaching a clearly defined issue for an early termination, i.e., either an allowance of the application or a final rejection.

Petitioner first argues that no clear issue has been developed between applicant and the examiner. An interview held on March 17, 2005 is cited by petitioner to show that advancement of prosecution was achieved. Specifically, proposed amendments were discussed that could possible overcome the primary reference used to reject the claims at that time. It is noted that in the interview summary, the examiner clearly points out that further searching would be required to determine the patentability of the newly presented claims. Another interview was conducted on March 17, at which time the examiner mentioned that several other references were being considered. This would be consistent with the earlier interview where the examiner clearly stated further searching would be carried out. Petitioner argues that the issue of "dry chemistry" first came up at this time and that it would be unfair to have this issue in writing for the first time in the final rejection. It is argued that this issue became a "surprise" issue that was not developed prior to the mailing of the final office action. This argument is not persuasive. At this time, the "dry chemistry" issue is not a relevant issue in that at no time has applicant put such a limitation into the claims. The fact that the examiner mentioned to applicant and further pointed out in an office action that if such a limitation were in fact actually put in the claims a rejection would be made, does not make this an issue for appeal. The record demonstrates that the examiner has gone out of his way to assist applicant and applicant's representatives by providing numerous interviews (at least five) and making suggestions as to how to overcome rejections of record. The fact that applicant continues to make amendments to overcome these rejections does not preclude the examiner from making new rejections in response. As stated above, second actions on the merits *shall* be made final except in limited situations. Nothing precluded applicant from initially claiming "dry chemistry" from the time the application was originally filed. The final rejection contains various rejections and the examiner's position on these rejections are clear. Accordingly, clear issues between the examiner and applicant exists (i.e. are the claims patentable over the rejections of record). The fact that applicant *may* elect to add a "dry chemistry" limitation to the claims does not preclude the examiner from making a proper final rejection at this time.

Petitioner also argues various issues relating to the substance of the rejections such as the use of hindsight and the proposed combinations of the references relied upon. These issues are not petitionable but rather should be present to the Board of Patent Appeals for decision thereof

Accordingly, the finality of the October 12, 2005 office action was proper and the petition is **DENIED.**

Applicant's time for response to the October 12, 2005 office action continues to run as set forth in the office action.

JMStone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Edward Langer
c/o Shiboleth, Yisraeli, Roberts, Zisman & Co.
350 Fifth Avenue - 60th Floor
New York NY 10118

10/145817

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/2/04

Paper No.: _____

TO SPE OF : ART UNIT 2800

SUBJECT : Request for Certificate of Correction on Patent No.: 6717741 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Virginia Tolbert
Certificates of Correction Branch

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments:

_____

_____

_____

_____

_____

George Eyer
SPE

2873
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

STEVEN J SHATTIL
P.O. BOX 17355
BOULDER CO 80308-0355

MAILED

JUN 2 1 2010

OFFICE OF PETITIONS

In re Application of	:	
Shattil, Steve J.	:	
Application No. 10/145,854	:	ON PETITION
Filed: May 14, 2002	:	
Attorney Docket No. CINET 01	:	

This is a decision on the petition, filed July 15, 2009, which is being treated as a petition under 37 CFR 1.181, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

This application was held abandoned for failure to timely respond to the Notice of Allowance, mailed February 25, 2009, which set a three (3) month statutory period for reply. Accordingly, a reply was due on or before May 26, 2009. A Notice of Abandonment was mailed June 24, 2009.

A response was received by the USPTO on May 28, 2009. Petitioner contends that the reply was timely since it was mailed via Express Mail in accordance with 37 CFR 1.10 on May 26, 2009. As stated in 37 CFR 1.10(a), any correspondence received by the USPTO that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed with the USPTO on the date of deposit with the USPS.

After further review of the instant petition, it does not appear the reply received on May 28, 2009 was mailed via the USPS Express Mail service, but rather, the USPS Priority Mail service. Both the USPS Postal Service Delivery Confirmation Receipt and the USPS Track & Confirm receipt provided by petitioner reflect Priority Mail service. In order for the reply to be considered filed on the date of deposit with the USPS as discussed in 37 CFR 1.10, the Express Mail service must be utilized.

Accordingly, as the reply received on May 28, 2009 was after the period for reply set forth in the Notice of Allowance, the instant application was properly abandoned.

ALTERNATIVE VENUE

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181.

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action, unless previously filed;

(2) The petition fee as set forth in 37 CFR 1.17(m), **$810.00 for a small entity**;

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:

U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana 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

NEIL D. GERSHON
REX MEDICAL
1011 HIGH RIDGE ROAD
STAMFORD, CT 06905

COPY MAILED
NOV 17 2006
OFFICE OF PETITIONS

In re Patent No. 6,989,004	:	
Issue Date: January 24, 2006	:	
Application No. 10/145,863	:	NOTICE
Filed: May 14, 2002	:	
Attorney Docket No. 1912	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This file is no longer entitled to small entity status. Accordingly, all future fees in this file must be paid at the large entity rate, absent further notification from a proper party of a change in status. *See* 37 CFR 1.27(c)(2).

Inquiries related to this communication should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAILED

NOV 14 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

KIRTON AND MCCONKIE
1800 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
P O BOX 45120
SALT LAKE CITY UT 84145-0120

Paper No. 5

In re application of : **DECISION ON PETITION**
Linwood Register et al. : **TO MAKE SPECIAL**
Application No. 10/145,920 : **(ACCELERATED EXAMINATION)**
Filed: May 15, 2002
For: SYSTEM FOR AND METHOD OF DOING BUSINESS TO PROVIDE NETWORK-BASED IN –STORE MEDIA BROADCASTING

This is in response to the petition filed on September 22, 2003 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references.

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703)308-0866

KJD/cps 11/05/03

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DORTHY S. MORSE, ESQ.
515 PARK DRIVE, NW
BRADENTON, FL 34209-1847

COPY MAILED

NOV 12 2004

OFFICE OF PETITIONS

In re Application of :
Michael Lee Guritz :
Application No. 10/145,925 : ON PETITION
Filed: May 15, 2002 :
Attorney Docket No. 0205-GUR :

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed September 7, 2004.

The application became abandoned for failure to pay the issue fee on or before March 11, 2004. A Notice of Abandonment was mailed April 26, 2004. In response, on September 7, 2004, the requisite issue fee and the present petition were filed.

The petition is GRANTED.

The application is being referred 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

SPE L. Feild

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/145,954

Paper No.: _____

DATE : 6/22/05

TO SPE OF : ART UNIT 2835

SUBJECT : Request for Certificate of Correction on Patent No.: 6856512

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:

LYNN FEILD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE **Art Unit** 2835

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.: 6,856,512

DATED: February 15, 2005

INVENTORS: Gary Rumney

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 6,

Line 8, please delete "and herein the gap is" and substitute -- and wherein the gap is --.

Column 6,

Line 54, please delete "a bolt, an a weld;" and substitute -- a bolt, and weld; --.

Column 7,

Line 12, please delete "base element coupled to said to" and substitute -- base element coupled to said top --.

Column 7,

Line 19, please delete "element coupled said top" and substitute -- element coupled to said top --.

Column 7,

Line 26 - 27, please delete "comprises staking portion of the U-seam" and substitute -- comprises staking a portion of the U-seam --.

Column 8,

Line 22 - 23, please delete "and the bare element are formed" and substitute -- and the base element are formed --.

Column 8,

Line 26, please delete "element coupled top said top" and substitute -- element coupled to said top --.

MAILING ADDRESS OF SENDER:
B. Noël Kivlin, Esq.,
MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. Box 398
Austin, Texas 78767-0398

PATENT NO.: 6,856,512

No. of add'l. copies

JUN 6 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 5

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APR 17 2003

OFFICE OF PETITIONS

John F. Gulbin
Pitney, Hardin, Kipp & Szuch, LLP
685 Third Avenue
New York, NY 10017-4024

In re Application of
Alvarez et al.
Application No.10/145,967
Filed: May 14, 2002
Attorney Docket Number: 003638.100696

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR §1.47(a), filed December 9, 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 May 14, 2002, without an executed oath or declaration. Accordingly, on June 7, 2002, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring for the purposes of this decision 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 August 7, 2002.

In reply, applicant filed a petition, the surcharge for late filing of the declaration, and a partially executed declaration. To make timely a four month request for extension of time was submitted. However, a four month extension of time is not sufficient because a response was due on December 7, 2002. The papers submitted reflect a date stamp of December 9, 2002. A review of the U.S. Post Office's express mail tracking system for EV110536635US shows the documents submitted were accepted on December 9, 2002. Thus petitioner is not entitled to the filing date of December 7, 2002. Accordingly, deposit account 50-1145 has been refunded the $720.00 and charged the five month extension fee of $980.00.

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 set forth above.

As to item (1), it is not clear in the documents presented whether Rule 47 applicant maintains inventor Liu can not be reached or that Liu refuses to sign the oath or declaration. If it is applicants' contention Liu cannot be reached, applicant must demonstrate diligent efforts were made to find or reach non-signing inventor. See MPEP

409.03(d). Rule 47 applicant has failed to provide any facts that would prove diligent effort was made to reach inventor Liu. Applicant merely states phone calls made were not returned. A few phone calls do not constitute diligent effort. Applicant failed to indicate who made phone calls to inventor Liu, when they were made and if inventor Liu was not available whether messages were left. Other steps applicant may wish to take include an electronic search, verifying with co-inventors whether inventor Liu left a forwarding address or telephone number, and checking in employment records for alternative contact information.

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.

To the extent applicant desires to make the case that the non-signing inventor refuses to execute the oath or declaration, applicant will need to establish a copy of the **entire** application package (including specification, claims and drawings) was presented to the non-signing inventor and he refused to sign. If it can be established that the application papers were delivered to the last known address of inventor Liu and there has been no response to the application papers, this may be construed as a refusal by the inventor to execute the application papers. However, rule 47 applicant must give the non-signing inventor an opportunity to sign the oath or declaration by sending the application papers to the last known address of the inventor. If applicant is aware the non-signing inventor can not be reached at the address provided on the declaration, applicant should make a showing that diligent effort has been made to locate the inventor.

As to item (2), the declaration submitted is not in compliance with 37 CFR 1.63 . Rule 47 applicant failed to provide the citizenship and mailing addresses of all of the inventors pursuant to 37 CFR 1.63 (a)(3)and (c)(1). Specifically, petitioner failed to provide the address and citizenship of inventor Liu. Upon renewed petition, a executed oath or declaration with all inventors information must be provided.

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 the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 11

SMITH, GAMBRELL & RUSSELL, LLP
SUITE 3100, PROMENADE II
1230 PEACHTREE STREET, N.E.
ATLANTA GA 30309-3592

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JUN 2 8 2004

OFFICE OF PETITIONS

In re Application of :
Alvarez et al. :
Application No. 10/145,967 : ON PETITION
Filed: May 14, 2002 :
Title of Invention: Node Management :
Architecture With Customized Line Card :
Handlers For A Modular Optical Network, and
Methods and Apparatus

This is a decision on the "Request to Withdraw Holding of Abandonment" filed ~~January~~ Feb. 17, 2004 , which is being treated under 37 CFR 1.181 .

The petition to withdraw the holding of abandonment is **DISMISSED**.

This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely submit a response to the April 17, 2003 Petition Decision Refusing Status Under 37 CFR 1.47(A) hereinafter "Petition". The Decision set a 2 month shortened statutory period for reply. Extensions of time pursuant to 37 C.F.R. §1.136(a) were not obtained. Accordingly, this application became abandoned on June 18, 2003. A Notice of Abandonment was mailed on January 23, 2004.

Petitioner asserts that the above-identified application is not abandoned because a reply in the form of a petition under 37 CFR 1.47(a) was timely filed on December 9, 2002 in response to the Notice of Missing Parts mailed January 7, 2002.

Petitioner is correct a petition in response to the Notice of Missing Parts was filed on December 9, 2002. However, the petition was dismissed on April 17, 2003 and provided petitioner with an extendable two month period for reply. The maximum time petitioner could have purchased for a request for reconsideration of the petition decision expired on November 18, 2003. No reply to the petition has been submitted. Accordingly the above-identified application remains Abandoned.

Alternative Venue

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by the required reply , the required petition fee ($665 for a small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional.

The filing of a petition under 37 C.F.R. § 1.137(b) cannot be intentionally delayed, and therefore, must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 C.F.R. § 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 C.F.R. § 1.137(b).

A courtesy copy of the Petition Decision is being submitted for petitioner's convenience.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office 220 20th Street S. Customer Window, Mail Stop Petition Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

Telephone inquiries should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

Enclosure

UNITED STATES
PATENT AND
TRADEMARK OFFICE

#8

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
PO BOX 1450, ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

MAY 19 2003

STEPHANIE SEIDMAN
HELLER, EHRMAN, WHITE & McAULIFFE
4350 LA JOLLA VILLAGE DRIVE, 7TH FLOOR
SAN DIEGO, CA 92122

In re Application of	:
Partha S. Banerjee et al	:
Serial No.: 10/145,978	: PETITION DECISION
Filed: May 13, 2002	:
Attorney Docket No.: 18025-1014	:

This is a decision on the petition under 37 CFR 1.144, filed November 22, 2002, requesting review of a restriction requirement under 35 U.S.C. 121. The delay in acting on this petition is regretted.

BACKGROUND

A review of the file history shows that the examiner mailed a first Office action to applicants on July 16, 2002, setting forth a restriction requirement as follows:

> Group I, claims 1-76 and 86-93, directed to a method of treatment of bronchial disorders using a pharmaceutical formulation comprising formoterol and a steroidal anti-inflammatory agent;
> Group II, claims 77-82, directed to a method of treatment of bronchial disorders using a pharmaceutical formulation comprising formoterol and a steroidal anti-inflammatory agent and a anti-cholinergic agent;
> Group III, claims 83-85, directed to a method of treatment of bronchial disorders using a pharmaceutical formulation comprising formoterol and a steroidal anti-inflammatory agent with an additional agent (e.g. - agonist, antibody, etc.).

The examiner reasoned that the inventions are independent and distinct because of different modes of operation and not being useable together. Election of species was also required within the group elected.

Applicants replied to the restriction requirement on August 16, 2002, electing Group I with traverse and canceling claims 83-85 (the claims of Group III) and amending claims 7, 55 and 87. Applicants argued that the relationship of Groups I and II is that of combination/subcombination and that two way distinctness has not been shown. The same argument was made for Groups I and III.

The examiner mailed a new Office action to applicants on September 24, 2002. The examiner in responding to the traversal maintained the requirement without modification, making the requirement Final. The examiner stated that the methods were different in that each of Group III and Group II added an additional component to the composition which thus changed the mode of operation. The elected claims werer also rejected for other reasons.

Applicants filed this petition on November 22, 2002, presenting the same reasoning for traversal of the requirement as before in an expanded format.

DISCUSSION

Applicants traverse the restriction between Groups I and II on the basis of combination/sub-combination where the subcombination is required for patentability of the combination. As noted, Group I is directed to a method of use of a pharmaceutical composition comprising two components, formoterol and an anti-inflammatory steroid. Group II is directed to the same method with the same composition, but comprising an additional component, an anticholinergic agent. Group II is a combination inclusive of the subcombination of Group I. In order to show distinctness between the two Groups, it would have to be shown that Group II was patentable and Group I was not; in other words patentability would rest solely on the anticholinergic agent. Such is obviously not the case here as the anticholinergic agent is not the invention being claimed. Applicants here are basing patentability on the subcombination of formoterol and an anti-inflammatory steroid. If such combination is patentable by itself, any related combination composition containing such subcombination is also patentable. Such reasoning would also apply to Group III, however the claims of Group III have been canceled. Applicants have not traversed the Election of species requirement and it remains as stated.

In summary, the claims of Grous I and II are related as combination/subcombination and are not properly restricted in this application. Group III has been canceled. Groups I and II are rejoined.

DECISION

Applicants' petition under 37 CFR 1.144 is **GRANTED** as noted above. The examiner will examine claims 1-82 and 86-93 as a single invention, claims 57-60, 77-82 and 89-90 having been withdrawn in view of a species election, in the next Office action.

Applicants remain obligated to reply to the Office action mailed September 24, 2002, within the time period set therein or as may be extended under 37 CFR 1.136(a).

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, Washington, D.C. 20231, or by telephone at (703)308-3824 or by facsimile transmission at (703) 305-7230.

John Doll
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Mailed: 4/21/05

rld
Paper Number _____

In re application of
Katsunori Yokoyama
Serial No. 10/145,983
Filed: May 14, 2002
For: THERMALLY INSULATED POT

DECISION ON PETITION

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT - OFFICE ACTION NOT RECEIVED, mailed March 25, 2004. The petitioner requests that the abandonment for failure to timely pay the required issue fee within the statutory period of three months from the mailing date of the Notice of Allowance be withdrawn. The requester asserts that the Notice of Allowance was not received at the applicant's correspondence address.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action, TMOG 1156 O.G. 53, November 16, 1993, (see also MPEP 711.03(c) - NEW PROCEDURE TMOG 1170 O.G. 114). A review of the petitioner's evidence indicates that the request has merit. The evidence presented is sufficient to establish that the applicants or applicant's representative did not receive the Notice of Allowance, mailed November 7, 2003. The evidence provided includes a statement by the petitioner that the Notice of Allowance and Issue Fee Due, mailed November 7, 2003, was not received, and a statement that a search of the file jacket and docket records indicate that the Notice of Allowance and Issue Fee Due was not received. Petitioner has also provided a copy of the application docket records where the Notice of Allowance would have been posted had it been timely received.

Therefore, the abandonment is hereby withdrawn, and the application is returned to pending status. The application shall be forwarded to the examiner for prompt remailing of the Notice of Allowance and restarting of the statutory period of response from the remail date thereof.

The Petition is **GRANTED**.

JStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Timothy Jeng
Patersons Enterprises
1863 W. Chanticleer Rd.
Anaheim, CA 92804

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUL 24 2007

Technology Center 2100

Liza Ellen Gilbert
8406 E. Harry Apt. 512
Wichita, KS 67207

In re Application of:
Liza Ellen GILBERT
Application No.: 10/145,990
Filed: May 14, 2002
For: READERS' INFORMATION MATRIX (RIM)

DECISION ON PETITION UNDER 37 C.F.R. § 1.8 TO ACCEPT PAPERS AS TIMELY FILED AND UNDER 37 C.F.R. § 1.181 TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed July 25, 2005 under 37 C.F.R. § 1.8(b) to accept papers as timely filed and as a petition under 37 C.F.R. § 1.181 requesting the Withdrawal of the Holding of Abandonment.

The petition is **DISMISSED**

This application was held abandoned for failure to respond in a timely manner to the Office Action mailed on August 25, 2004. A Notice of Abandonment was mailed on June 2, 2005.

37 C.F.R. § 1.8 states:

> (a) Except in the situations enumerated in paragraph (a)(2) of this section or as otherwise expressly excluded in this chapter, correspondence required to be filed in the U.S. Patent and Trademark Office within a set period of time will be considered as being timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.
>
> (1) Correspondence will be considered as being timely filed if:
>
> (i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:
>
> (A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail; or
>
> (B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6(d); and
>
> (ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated ...

(b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office, and the application is held to be abandoned or the proceeding dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence,

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate, and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition is accompanied by a copy of the originally letter. The letter appeared to indicate that an amendment to claims and description of the application has been made, but copies of such an amendment were not provided. Further, the petition does not comply with the requirements set forth in 37 C.F.R. §§ 1.8(a)(1) and 1.8(b)(2)-(b)(3).

For the above stated reasons, the petition is **DISMISSED**.

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.

It is noted that applicant has been moved. Applicant **must submit a change of address** to the U.S. Patent and Trademark Office, so that all future corresponding will be sent to the correct address.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

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NEXSEN PRUET, LLC
PO DRAWER 2426
COLUMBIA SC 29202-2426

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MAR 3 1 2008
OFFICE OF PETITIONS

In re Patent No. 6,752,137	:	
Issue Date: June 22, 2004	:	
Application No. 10/146,003	:	ON PETITION
Filed: May 15, 2002	:	
Attorney Docket No. 23532-62	:	

This is a decision on the petition filed December 10, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED TO THE EXTENT INDICATED HEREIN**.

A certificate of correction **may** enter in the name of **FN Manufacturing Inc., Columbia, South Carolina**, as set forth in the draft Certificate of Correction, a copy of which is attached to the instant decision.

A certificate of correction may not enter in the name of FN Manufacturing LLC, Columbia, South Carolina this is because effective June 25, 2004, 37 CFR 3.81(b), 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 FN Manufacturing Inc. to FN Manufacturing LLC was recorded **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.

---

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3205. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction in the name of FN Manufacturing, Inc. Columbia, South Carolina..

Alesia M. Brown
Petitions Attorney
Office of Petitions

PTO/SB/44 (07-07)
Approved for use through 07/31/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : **6,752,137** Page 1 of 1

APPLICATION NO. : **10/146,003**

ISSUE DATE : **June 22, 2004**

INVENTOR(S) : **JAMES BRUNETTE, ET AL**

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Assignee: FN Manufacturing, Inc., Columbia, SC

MAILING ADDRESS OF SENDER (Please do not use customer number below):

MICHAEL A. MANN (REG NO. 32,825); NEXSEN PRUET, LLC;
PO DRAWER 2426; COLUMBIA, SC 29202-2426

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing the burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

UNITED STATES PATENT AND TRADEMARK OFFICE

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PATENT LEGAL DEPARTMENT/A-42-C
BECKMAN COULTER, INC.
4300 N. HARBOR BOULEVARD
BOX 3100
FULLERTON CA 92834-3100

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OFFICE OF PETITIONS

In re Application of
Robert S. Matson
Application No. 10/146,004
Filed: May 15, 2002
Attorney Docket No.: 1860-045

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed July 9, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)" or "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency decision.

This application became abandoned on March 25, 2004, for failure to pay the issue fee in response to the Notice of Allowance mailed December 24, 2003 and which set a three (3) month period for reply. Accordingly, a Notice of Abandonment was mailed May 7, 2004.

Petitioner asserts that the Notice of Allowance was never received.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;

(2) the petition fee as set forth in § 1.17(l);

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and

(4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph ©) of this section.

This petition lacks items (1) and (3) above.

With regard to item (3), decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[1]

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[2]

Petitioner asserts that the Notice mailed December 24, 2003, was never received. A review of the record indicates no irregularity in the mailing of the Office action, and in

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[1] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[2] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office action must include a statement from the inventor that the Office communication was not received and attesting to the fact that a search of the docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in petitioner's statement.[3]

Petitioner has submitted a statement by Michelle Dallas, an employee from the Legal Department at Beckman Coulter that avers the Notice was not received but no additional evidence has been provided to corroborate Ms. Dallas' statement. As the showing presented is insufficient to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a), the petition will be dismissed.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b),[4] which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

The filing of a petition under the unintentional standard cannot be intentionally delayed

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[3]M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

[4]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137©)).

and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (703)308-6916
Attn: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703) 305-4497. Please be advised that effective September 28, 2004, the telephone number to reach the Office of Petitions will change to (517) 272-3282.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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4300 N. HARBOR BOULEVARD
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OFFICE OF PETITIONS

In re Application of
Robert S. Matson
Application No. 10/146,004
Filed: May 15, 2002
Attorney Docket No.: 1860-045

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b),[1] filed September 27, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on March 25, 2004, for failure to pay the issue fee in response to the Notice of Allowance mailed December 24, 2003 and which set a three (3) month period for reply. Accordingly, a Notice of Abandonment was mailed May 7, 2004. On July 9, 2004 a petition to revive under 37 CFR 1.137(a) was filed but was dismissed in a decision mailed July 26, 2004[2].

Comes now the instant petition to revive under the unintentional standard.

Since the issue fee was previously paid with the petition filed July 9, 2004, the application is being forwarded to the Publishing Division to be processed into a patent.

Telephone inquiries related to this decision 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.

(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©)).

[2] The petition fee was in fact submitted with the petition filed July 9, 2004. The decision mailed July 26, 2004 incorrectly stated that the petition lacked item 1. Only item 3 was insufficient.

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30 ROCKEFELLER PLAZA,
44TH FLOOR
NEW YORK, NY 10112-4498

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OFFICE OF PETITIONS

In re Application of	:	
Vincent E. VITTI	:	
Application No. 10/146,011	:	DECISION ON PETITION
Filed: May 15, 2002	:	TO WITHDRAW
Attorney Docket No. A33450-067137.0106	:	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 9, 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 Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that the acts noted above have been performed.

The request cannot be approved because the attorneys of record were not appointed by Customer No. 21003, as indicated.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: MR. VINCE VITTI
VTS TRAVEL ENTERPRISES, INC.
860 WYCKOFF AVENUE
MAHWAH, NJ 07830

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OFFICE OF PETITIONS

In re Application of	:	
Vincent E. VITTI	:	
Application No. 10/146,011	:	DECISION ON PETITION
Filed: May 15, 2002	:	TO WITHDRAW
Attorney Docket No. A33450-067137.0106		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 Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because the attorneys of record were not appointed by Customer Number 21003, as indicated.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: MR. VINCE VITTI
VTS TRAVEL ENTERPRISES, INC.
860 WYCKOFF AVENUE
MAHWAH, NJ 07830

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OFFICE OF PETITIONS

In re Application of	:	
Vincent E. VITTI	:	
Application No. 10/146,011	:	DECISION ON PETITION
Filed: May 15, 2002	:	TO WITHDRAW
Attorney Docket No. A33450-067137.0106	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed April 21, 2009.

The request is **NOT APPROVED**.

A review of the file record indicates that Eliot D. Williams does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: MR. VINCE VITTI
VTS TRAVEL ENTERPRISES, INC.,
860 WYCKOFF AVENUE
MAHWAH, NJ 07830

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of	:	
Vincent E. VITTI	:	
Application No. 10/146,011	:	DECISION ON PETITION
Filed: May 15, 2002	:	TO WITHDRAW
Attorney Docket No. A33450 – 067137.0106	:	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 22, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Gary M. Butter on behalf of all the attorneys of record.

All the attorneys of record have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: VINCENT VITTI
VTS TRAVEL ENTERPRISES, INC.
860 WYCKOFF AVENUE
MAHWAH, NJ 07830

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/146,011	05/15/2002	Vincent E. Vitti	A33450 - 067137.0106

CONFIRMATION NO. 9043

POWER OF ATTORNEY NOTICE

OC000000036491124

21003
BAKER BOTTS L.L.P.
30 ROCKEFELLER PLAZA
44TH FLOOR
NEW YORK, NY 10112-4498

Date Mailed: 06/16/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/22/2009.

- 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.

/dcgoodwyn/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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MCDERMOTT, WILL & EMERY
600 13TH STREET, N.W.
WASHINGTON, DC 20005-8000

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APR 11 2007

OFFICE OF PETITIONS

In re Patent No. 6,784,101	:	
Issue Date: August 31, 2004	:	
Application No. 10/146,029	:	ON PETITION
Filed: May 16, 2002	:	
Attorney Docket No. 50432-345	:	

This is a decision on the petition under 37 CFR1.183, filed January 11, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

The $100 fee for the Certificate of Correction is being charged to counsel's deposit account as authorized.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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ATTN AMSRL CS CC IP
2800 POWDER MILL RD
ADELPHI MD 20783-1197

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OFFICE OF PETITIONS

In re Application of	:	
Rigas, et al.	:	
Application No. 10/146,055	:	ON PETITION
Filed: May 16, 2002	:	
Attorney Docket No. ARL 01-23	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on December 12, 2005 to revive the above-identified application.

This application became abandoned for failure to timely respond to the final Office action mailed April 1, 2005, which set an extendable three month period for reply. Applicant submitted a two month extension of time and an amendment after final on August 31, 2005. The amendment after final failed to place this application in *prima facie* condition for allowance, as was explained in the September 20, 2005 Advisory action. Accordingly, this application became abandoned on September 2, 2005. A Notice of Abandonment was mailed on December 13, 2005.

Applicants have submitted an amendment that *prima facie* places the application in condition for allowance as the reply to the April 1, 2005 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the April 1, 2005 final Office action, and the petition fee.[1]

The petition is **GRANTED**.

[1] Pursuant to petitioners' authorization, deposit account no. 19-2201 will be charged a $1.500.00 Rule 137(b) petition fee.

After the mailing of this decision the application will be forwarded to Technology Center AU 1732.

Telephone inquiries pertaining to this decision may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MILA KASAN
PATENT DEPARTMENT
APPLIED BIOSYSTEMS
850 LINCOLN CENTER DR
FOSTER CITY CA 94404

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NOV 23 2005

OFFICE OF PETITIONS

In re	:
Sandell, et al.	: DECISION REGARDING
Application No. 10/146,066	: PATENT TERM ADJUSTMENT
Filed: May 16, 2002	:
Attorney Docket No. 4697	:

This decision is in response to the "PATENT TERM ADJUSTMENT (PTA)", filed August 8, 2005, requesting correction of the patent term adjustment (PTA) indicated on the patent.

The request is **DISMISSED**.

On July 28, 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 thirty-seven (437) days. Applicants submitted the instant "PATENT TERM ADJUSTMENT (PTA)" on August 8, 2005. Applicants state that they believe there was an error in their favor in the patent term adjustment calculation.

The Office determined a patent term adjustment of four hundred thirty-seven (437) days based on an adjustment for PTO delay of four hundred thirty-nine (439) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by two (2) days of applicant delay pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b).

Applicants believe they should have been assessed additional delay for filing a supplemental paper (an IDS) pursuant to 37 C.F.R. § 1.704(c)(8). Applicants filed a preliminary amendment on March 21, 2003. On November 24, 2003, applicants filed an IDS. As pointed out by applicants, the IDS did not contain a 37 C.F.R. § 1.704(d) statement.

However, the IDS was filed prior to the PTO mailing a first Office action under 35 U.S.C. 132. The first Office action under 35 U.S.C. 132 (a Restriction Requirement) was not mailed until September 27, 2004. Accordingly, the filing of the IDS is not considered to be a "failure to engage".

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **four hundred thirty-seven (437) days** (439 days of PTO delay, reduced by 2 days of applicant delay).

The application file is being forwarded to the Office of Patent Publication for issuance into a patent.

Telephone inquiries specific to this letter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Kery A Fries

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : August 24, 2007

TO SPE OF : ART UNIT 1744 Gladys J.P. Corcoran

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/146,066 Patent No.: 6982166 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**.

Antonio Johnson
Certificates of Correction Branch
703-308-9390 ext. 111

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☒ **Denied** — State the reasons for denial below.

Comments: See attached Dismissal of Petition/Request to correct inventorship.

Gladys Corcoran, SPE — 1797
SPE — **Art Unit**

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In re Patent No. SANDELL, DONALD R. Issue Date: January 3, 2006 Appl. No.: 10/146,066 Filed: May 16, 2002 For: **LENS ASSEMBLY FOR BIOLOGICAL TESTING**	**DECISION DISMISSING PETITION** *37 CFR 1.324*

This is a decision on the request under 37 CFR 1.48, filed September 7, 2004, and the subsequent request for a Certificate of Correction filed April 3, 2006 to address the previous request under 37 CFR 1.48. In view of the fact that the patent has already issued, the request under 37 CFR 1.48 has been treated as a petition to correct inventorship under 37 CFR 1.324.

The petition is 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.

Gladys JP Corcoran
Supervisory Patent Examiner
Art Unit 1797
Patent Examining Group 1700

MILA KASAN, PATENT DEPT.
APPLIED BIOSYSTEMS
850 LINCOLN CENTRE DRIVE
FOSTER CITY, CA 94404

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MAY 10 2006

OFFICE OF PETITIONS

Motorola, Inc.
Law Department
1303 E. Algonquin Road
Schaumburg, IL 60196

In re Application of:
Yanosy, John Anthony
Application No.: 10/146,083
Filing Date: May 15, 2002
Attorney's Docket No.: CE5075N
For: QOS FRAMEWORK SYSTEM

DECISION ON PETITION FOR REVIVAL OF ABANDONED APPLICATION UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed December 29, 2005 to revive the above-entitled application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the non-final Office action mailed July 26, 2005, which set a shortened statutory period for reply of three (3) months. A response was not filed and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on September 27, 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 to the Office action mailed July 26, 2005; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Office action of December 29, 2005 is accepted as having been unintentionally delayed.

The application is being referred back to Technology Center AU 2129 for further processing.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration/Office of Petitions
Tel: (571) 272-3298
Fax: (571) 273-0459

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Douglas G. Hodder
Morrison & Foerster, LLP
755 Page Mill Road
Palo Alto, CA 94304-1018

In re Patent No. 6,909,529	:	
Issue Date: June 21, 2005	:	
Application No. 10/146,085	:	NOTICE
Filed: May 13, 2002	:	
Patentee(s): Kevin R. Curtis	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed August 21, 2006[1]. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**. Therefore, status as a small entity has been removed and all future fees paid must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

[1] Petitioner supplied the Office with a copy of the USPTO Auto-Reply Facsimile Transmission receipt, which shows that the Notification under 1.28(c) was originally filed with a Certificate of Facsimile Transmission under 37 CFR 1.8 dated June 5, 2006. Subsequently, the document was misplaced within the USPTO.

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HIGHLANDS RANCH CO 80129

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OFFICE OF PETITIONS

In re Application of	:	
Hale et al.	:	
Application No. 10/146086	:	ON PETITION
Filing or 371(c) Date: 05/13/2002	:	
Title of Invention:	:	
METHOD AND APPARATUS FOR	:	
VAPORIZING A COMPOUND	:	

This is a decision on the "Petition for the Suspension of Rules Under § 1.183", filed September 25, 2006, requesting waiver of the requirements of 37 CFR 1.64, that each inventor execute the oath or declaration. The petition is properly treated as a request for waiver of 37 CFR 1.48(a)(3), which requires 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.

The petition is dismissed.

Petitioner 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 [insert the applicable code section]"; 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).

Background

Applicant filed a Request for Amendment of Inventorship Under 37 CFR § 1.48(a) on June 13, 2006, requesting correction of inventorship in the above-identified application. The Rule 48 petition and the documents supporting the petition, including the written consent of the assignee and the assertion by the inventors sought to added, that the error occurred without deceptive intent, were unexecuted.

The present petition under 37 CFR 1.183

Petitioner files the present executed petition, fee, and supporting documents, including the written consent of the assignee and the assertion by the inventors sought to added, that the error

occurred without deceptive intent. Petitioner states that the nonsigning inventor is believed to be in Korea and is unreachable. Petitioner also files an oath/declaration executed by inventor Rabinowitz; however, the citizenship of inventor Rabinowitz is missing. It also noted that the date of execution of the oath/declaration by inventor Zaffaroni is missing.

Applicable Law, Rules and MPEP

Under 37 CFR 1.48(a), if the correct inventor or inventors are not named in an executed oath or declaration under 37 CFR 1.63 in a nonprovisional application for patent, the application can be amended to name only the actual inventor or inventors so long as the error in the naming of the inventor or inventors occurred without any deceptive intention on the part of the person named as an inventor in error or the person who through error was not named as an inventor.

37 CFR 1.48(a) requires that the amendment be accompanied by:

> (1) a request to correct the inventorship that sets forth the desired inventorship change;
>
> (2) 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;
>
> (3) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47;
>
> (4) the fee set forth in 37 CFR 1.17 (i); and
>
> (5) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

The MPEP further provides that:

> [i]n those situations where an inventor to be added refuses to submit a statement supporting the addition or such party cannot be reached, waiver under 37 CFR 1.183 of the requirement for a statement from that party would be appropriate upon a showing of such refusal or inability to reach the inventor. Every existing assignee of the original named inventors must give its consent to the requested correction. Where there is more than one assignee giving its consent, the extent of that interest (percentage) should be shown. Where no assignment has been executed by the inventors, or if deletion of a refusing inventor is requested, waiver will not be granted absent unequivocal support for the correction sought. Petitions under 37 CFR 1.47 are not applicable to the requirement for statements from each originally named inventor. (Emphasis supplied).

MPEP 201.03

Regarding a showing of refusal or inability to reach the inventor, Applicant is advised that, where an inventor is unavailable (cannot be reached), 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 asserts that the nonsigning inventor is believed to be in Korea and is unreachable. Applicant, however, did not include any specific steps taken to obtain the nonsigning inventor's current contact information 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).

Applicant is also advised that, if the whereabouts of the nonsigning inventor are known, Applicant is required to send the application to the inventor for his review.

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the non-signing inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 CFR 1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration.

MPEP 409.03(d).

<u>Analysis</u>

Applicant has failed to provide a showing of the inability to reach the nonsigning inventor. While a petition under Rule 47 is not applicable, the showing, that a nonsigning inventor refuses to join in an application or cannot be found or reached, is similar to the showing required in a rule 47 petition. Where a refusal to join in the application is alleged, petitioner must demonstrate presentation of the application (specification, claims and drawing(s)), before a refusal to join in the application may be alleged. Where inability to reach the nonsigning inventor is alleged, a showing of a diligent effort to find or reach the nonsigning inventor is required.

Also, the oath or declaration as-filed fails to comply with 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47. See 37 CFR 1.48(a)(3). The citizenship of inventor Rabinowitz is missing. An oath or declaration in compliance with 37 CFR 1.63, or as permitted by 37 CFR 1.42, 1.43 or 1.47, is required.

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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United States Patent and Trademark Office
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HIGHLANDS RANCH CO 80129

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JUL 30 2007

OFFICE OF PETITIONS

In re Application of :
Hale et al. :
Application No. 10/146086 :
Filing or 371(c) Date: 05/13/2002 :
Title of Invention: :
METHOD AND APPARATUS FOR :
VAPORIZING A COMPOUND :

ON PETITION

This is a decision on the "Request for Reconsideration of Petition Under 37 CFR § 1.183", filed April 19, 2007, noting the joinder of the inventors. The petition is properly treated under 37 CFR 1.48.

The petition is dismissed.

Petitioner 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 [insert the applicable code section]"; 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).

Background

Applicant filed a Request for Amendment of Inventorship Under 37 CFR § 1.48(a) on June 13, 2006, requesting correction of inventorship in the above-identified application. The Rule 48 petition and the documents supporting the petition, including the written consent of the assignee and the assertion by the inventors sought to added, that the error occurred without deceptive intent, were unexecuted.

Thereafter, on September 25, 2006, Petitioner filed an executed petition; petition fee, and supporting documents, including the written consent of the assignee and the assertion by the inventors sought to added, that the error occurred without deceptive intent. Petitioner stated that the nonsigning inventor was believed to be in Korea and is unreachable. Petitioner also filed an oath/declaration executed by one of the five inventors, inventor Rabinowitz; however, the

citizenship of inventor Rabinowitz was missing. It was also noted that the date of execution of the oath/declaration by inventor Zaffaroni was missing.

The petition was dismissed in a Decision mailed January 30, 2007. The Decision dismissing the petition informed Applicant that under 37 CFR 1.48(a), if the correct inventor or inventors are not named in an executed oath or declaration under 37 CFR 1.63 in a nonprovisional application for patent, the application can be amended to name only the actual inventor or inventors so long as the error in the naming of the inventor or inventors occurred without any deceptive intention on the part of the person named as an inventor in error or the person who through error was not named as an inventor.

37 CFR 1.48(a) requires that the amendment be accompanied by:

> (1) a request to correct the inventorship that sets forth the desired inventorship change;
>
> (2) 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;
>
> (3) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47;
>
> (4) the fee set forth in 37 CFR 1.17 (i); and
>
> (5) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

The MPEP further provides that:

> [i]n those situations where an inventor to be added refuses to submit a statement supporting the addition or such party cannot be reached, waiver under 37 CFR 1.183 of the requirement for a statement from that party would be appropriate upon a showing of such refusal or inability to reach the inventor. Every existing assignee of the original named inventors must give its consent to the requested correction. Where there is more than one assignee giving its consent, the extent of that interest (percentage) should be shown. Where no assignment has been executed by the inventors, or if deletion of a refusing inventor is requested, waiver will not be granted absent unequivocal support for the correction sought. Petitions under 37 CFR 1.47 are not applicable to the requirement for statements from each originally named inventor. (Emphasis supplied).

MPEP 201.03

Regarding a showing of refusal or inability to reach the inventor, Applicant was advised that, where an inventor is unavailable (cannot be reached), 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).

Applicant was required to provide a showing of the inability to reach the nonsigning inventor, and an oath or declaration in compliance with 37 CFR 1.63, or as permitted by 37 CFR 1.42, 1.43 or 1.47, was also required.

The present request for reconsideration

Applicant files the present request for reconsideration of petition and includes an oath/declaration executed by all five inventors. However, a review of oath/declaration and of the application file reveal that the residences of inventors Zafforini and Rabinowitz have not been filed.

37 CFR 1.63(c)(1) states:

> Unless such information is supplied on an application data sheet in accordance with § 1.76, the oath or declaration must also identify: (1) The mailing address, and the residence if an inventor lives at a location which is different from where the inventor customarily receives mail, of each inventor.

The petition fails to satisfy 37 CFR 1.48(a)(3). A Supplemental Application Data Sheet of Supplemental oath/declaration which includes the residence of the inventors is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of	:	
Hale et al.	:	
Application No. 10/146086	:	ON PETITION
Filing or 371(c) Date: 05/13/2002	:	
Title of Invention:	:	
METHOD AND APPARATUS FOR	:	
VAPORIZING A COMPOUND	:	

This is a decision on the "Request for Reconsideration of Petition Under 37 CFR § 1.183", filed August 13, 2007, noting the joinder of the inventors. The petition is properly treated under 37 CFR 1.48.

The petition is granted.

Background

Applicant filed a Request for Amendment of Inventorship Under 37 CFR § 1.48(a) on June 13, 2006, requesting correction of inventorship in the above-identified application. The Rule 48 petition and the documents supporting the petition, including the written consent of the assignee and the assertion by the inventors sought to added, that the error occurred without deceptive intent, were unexecuted.

Thereafter, on September 25, 2006, Petitioner filed an executed petition; petition fee, and supporting documents, including the written consent of the assignee and the assertion by the inventors sought to added, that the error occurred without deceptive intent. Petitioner stated that the nonsigning inventor was believed to be in Korea and is unreachable. Petitioner also filed an oath/declaration executed by one of the five inventors, inventor Rabinowitz; however, the citizenship of inventor Rabinowitz was missing. It was also noted that the date of execution of the oath/declaration by inventor Zaffaroni was missing.

The petition was dismissed in a Decision mailed January 30, 2007. The Decision dismissing the petition informed Applicant that under 37 CFR 1.48(a), if the correct inventor or inventors are not named in an executed oath or declaration under 37 CFR 1.63 in a nonprovisional application for patent, the application can be amended to name only the actual inventor or inventors so long as the error in the naming of the inventor or inventors occurred without any deceptive intention

on the part of the person named as an inventor in error or the person who through error was not named as an inventor.

37 CFR 1.48(a) requires that the amendment be accompanied by:

> (1) a request to correct the inventorship that sets forth the desired inventorship change;
>
> (2) 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;
>
> (3) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47;
>
> (4) the fee set forth in 37 CFR 1.17 (i); and
>
> (5) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

The MPEP further provides that:

> [i]n those situations where an inventor to be added refuses to submit a statement supporting the addition or such party cannot be reached, waiver under 37 CFR 1.183 of the requirement for a statement from that party would be appropriate <u>upon a showing of such refusal or inability to reach the inventor</u>. Every existing assignee of the original named inventors must give its consent to the requested correction. Where there is more than one assignee giving its consent, the extent of that interest (percentage) should be shown. Where no assignment has been executed by the inventors, or if deletion of a refusing inventor is requested, waiver will not be granted absent unequivocal support for the correction sought. Petitions under 37 CFR 1.47 are not applicable to the requirement for statements from each originally named inventor. (Emphasis supplied).

MPEP 201.03

Regarding a showing of refusal or inability to reach the inventor, Applicant was advised that, where an inventor is unavailable (cannot be reached), 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).

Applicant was required to provide a showing of the inability to reach the nonsigning inventor, and an oath or declaration in compliance with 37 CFR 1.63, or as permitted by 37 CFR 1.42, 1.43 or 1.47, was also required.

The April 19, 2007 request for reconsideration

Applicant filed a request for reconsideration of petition on April 19, 2007, and included an oath/declaration executed by all five inventors. However, a review of oath/declaration and of the application file revealed that the residences of inventors Zafforini and Rabinowitz had not been filed.

37 CFR 1.63(c)(1) states:

> Unless such information is supplied on an application data sheet in accordance with § 1.76, the oath or declaration must also identify: (1) The mailing address, and the residence if an inventor lives at a location which is different from where the inventor customarily receives mail, of each inventor.

The petition failed to satisfy 37 CFR 1.48(a)(3). A Supplemental Application Data Sheet of Supplemental oath/declaration which includes the residence of the inventors was required.

The present request for reconsideration

The present request for reconsideration includes: (1) a request to correct the inventorship that sets forth the desired inventorship change; (2) 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 (filed September 25, 2006); (3) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47 (filed on April 19, 2007); (4) the fee set forth in 37 CFR 1.17 (i) (filed September 25, 2006); and (5) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment (filed September 25, 2006).

Accordingly, the petition is granted. A corrected Filing Receipt identifying the inventorship of the application is enclosed herewith.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

Enclosure; Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/146,086	05/13/2002	3771	730	00018.01NP	37	4

CONFIRMATION NO. 7786

CORRECTED FILING RECEIPT

OC000000025615191

37485
SWANSON & BRATSCHUN, L.L.C
8210 SOUTHPARK TERRACE
LITTLETON, CO 80120

Date Mailed: 08/30/2007

Receipt is acknowledged of this nonprovisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Ron L. Hale, Woodside, CA;
Soonho Song, Palo Alto, CA;
Reynaldo J. Quintana, Redwood City, CA;
Alejandro C. Zafforini, Atherton, CA;
Joshua D. Rabinowitz, Princeton, NJ;

Power of Attorney:

Elaine Stracker--43166

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 06/26/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/146,086

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

Method and apparatus for vaporizing a compound

Preliminary Class

128

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

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TEXAS INSTRUMENTS INCORPORATED
P.O. BOX 655474, M/S 3999
DALLAS, TX 75265

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OFFICE OF PETITIONS

In re Application of	:	
Eric G. Oettinger, et. al.	:	
Application No. 10/146,091	:	ON PETITION
Filed: May 14, 2002	:	
Attorney Docket No. TI-34186	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on November 3, 2006, to revive the above-identified application. The delay in responding is regretted.

The application became abandoned for failure to respond to the non-final Office action mailed December 13, 2005. A Notice of Abandonment was mailed on June 27, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 2613, for review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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8000 TOWERS CRESCENT DRIVE
14TH FLOOR
VIENNA VA 22182-6212

MAILED

JAN 06 2010

OFFICE OF PETITIONS

In re Application of
Ted Gower
Application No. 10/146,094
Filed: May 14, 2002
Attorney Docket No. 087558.00018

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 20, 2009.

The request is **NOT APPROVED**.

The Office will no longer accept address changes to a new practitioner of law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the request does not include an acceptable current correspondence address for future communications from the Office.

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).

Further the request cannot be approved because the statement under 3.73(b) is not proper or no statement under 3.73(b) was filed.

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).

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.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: ARMOR SCREEN CORPORATION
2001-H NORTH CONGRESS AVENUE
RIVIERA BEACH, FL 33404

UNITED STATES PATENT AND TRADEMARK OFFICE

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ORACLE C/O MURABITO, HAO & BARNES LLP
TWO NORTH MARKET STREET
THIRD FLOOR
SAN JOSE, CA 95113

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SEP 22 2008

OFFICE OF PETITIONS

In re Application of	:	
Randall David Yee	:	
Application No. 10/146,099	:	DECISION ON PETITION
Filed: May 14, 2002	:	
Attorney Docket No. ORCL-2001-117-01	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 19, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant (37 CFR 1.121) Amendment mailed, May 4, 2006, which set a shortened statutory period for reply of one (1) month or 30 days whichever is longer from the mail date of the Notice. No extension of time under the provisions of 37 CFR 1.136 (a) were obtained. Accordingly, the application became abandoned on June 5, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to Technology Center AU 2157 for appropriate action by the Examiner in the normal course of business on the reply received.

Andrea Smith
Petitions Examiner
Office of Petitions

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RAJ S. DAVE, PH.D., J.D.
MORRISON & FOERSTER LLP
2000 PENNSYLVANIA AVE., N.W.
WASHINGTON DC 20006-1888

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JAN 25 2006

OFFICE OF PETITIONS

In re Patent No. 6,743,552	:	
Issued: 1 June, 2004	:	
Application No. 10/146,115	:	ON PETITION
Filed: 16 May, 2002	:	
Atty. Docket No. 495812000600	:	

This is in response to the deficiency fee payment filed pursuant to 37 CFR 1.28(c) on 2 December, 2005.

37 CFR 1.28(c) states, "The deficiency is based on the amount of the fee, for other than a small entity, in effect at the time the deficiency is paid in full."

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Small entity status will no longer apply.

The file is being forwarded to Files Repository.

Telephone inquiries 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

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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

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SEP 01 2006

OFFICE OF PETITIONS

In re Application of :
Paul A. Averback :
Application No. 10/146,130 :
Filed: May 16, 2002 :
Attorney Docket No. 59003.000007 :

This is a decision in response to the Petition to Withdraw Holding of Abandonment based on Evidence that a Reply was Timely Filed, filed November 4, 2005. The petition is properly treated under 37 CFR 1.181. The delay in treating this petition is regretted.

The petition is **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under [insert the applicable code section]." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to file an appeal brief after filing a Notice of Appeal. A final office action was mailed March 10, 2005. Applicant filed an Amendment and a Notice of Appeal on September 12, 2005. The Amendment failed to place the application in condition for allowance. After filing the Notice of Appeal, Applicant was given two (2) months within which to file an appeal brief. Extensions of time under 37 CFR 1.136 were available. Applicant failed to file an appeal brief. Since no claims were allowed,

the application became abandoned on the date the brief was due, November 12, 2005. See, 37 CFR 41.37 and MPEP 1205.01.

The instant petition

Applicant files the instant petition and requests withdrawal of the holding of abandonment because a timely response to the final Office Action, to wit an amendment and notice of appeal, was filed.

Applicable Law

37 CFR § 1.135, Abandonment for failure to reply within time period, provides:
(a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
(b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.

Analysis

Here, Applicant's amendment, while timely, was not a complete and proper reply as the condition of the application required. Applicant also filed a Notice of Appeal; however, Applicant failed to timely file an appeal brief. Since no claims were allowed, the application became abandoned on the date the brief was due, November 12, 2005.

Conclusion

Accordingly the holding of abandonment of the application is proper.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

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JUN 2 9 2007

OFFICE OF PETITIONS

In re Application of	:	
Paul A. Averback	:	
Application No. 10/146130	:	DECISION ON
Filing or 371(c) Date: 05/16/2002	:	PETITION
For: COMPOSITION FOR PREVENTING	:	
CELL DEATH AND/OR TISSUE NECROSIS	:	
RESULTING FROM CONTACT WITH	:	
NEURAL THREAD PROTEINS	:	

This is a decision in response to the "Petition to Accept Late Filing of Renewed Petition, Petition for Equitable Tolling of Statutory Period for Response, and Filing of Appeal Brief;" "Renewed Petition to Withdraw Holding of Abandonment Based on Evidence that a Reply was Timely Filed Pursuant to 37 C.F.R. § 1.181(a)", and "Petition for Equitable Tolling of the Statutory Period for Response Due to PTO Error and Detrimental Reliance on that Error by Applicant Pursuant to 37 C.F.R. 1.182," all filed on March 12, 2007.

The Petition to Accept Late Filing of Renewed Petition is **granted**.

The Renewed Petition to Withdraw Holding of Abandonment Based on Evidence that a Reply was Timely Filed Pursuant to 37 C.F.R. § 1.181(a) is **dismissed**.

The Petition for Equitable Tolling of the Statutory Period for Response Due to PTO Error and Detrimental Reliance on that Error by Applicant Pursuant to 37 C.F.R. 1.182 is **dismissed**.

Petitioner's Alternate request to revive the application is **held in abeyance**.

Any further petition to Withdraw Holding of Abandonment, or for Equitable Tolling of the Statutory Period for Response Due to PTO Error and Detrimental Reliance on that Error by Applicant Pursuant to 37 C.F.R. 1.182, must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

After a decision on the petition(s) for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director. Therefore, it is extremely important that petitioner supply **any** and **all** relevant information and documentation with his request for

reconsideration. The Director's decision will be based solely on the administrative record in existence.

Background

The above-identified application became abandoned for failure to file an Appeal Brief after filing a Notice of Appeal. A final Office action was mailed March 10, 2005. Applicant filed and Amendment and a Notice of Appeal on September 12, 2005. The Amendment failed to place the application in condition for allowance. Upon filing the Notice of Appeal, Applicant was given two (2) months within which to file an Appeal Brief. Extensions of time under 3 CFR 1.136(a) were available. Applicant failed to file an Appeal Brief. Since no claims were allowed, the application became abandoned on the date the brief was due: November 12, 2005. See, 37 CFR 41.37 and MPEP 1205.01.

The November 4, 2005 petition

Applicant filed a petition on November 4, 2005, wherein Applicant requested withdrawal of the holding of abandonment based upon an assertion that a timely response to the final Office action – an amendment and a Notice of Appeal - was filed.

The September 1, 2006 Decision

The petition was dismissed in a Decision mailed September 1, 2006. The Decision dismissing the petition informed applicant that, pursuant to 37 CFR 1.135, the required reply must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, and amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment. The Decision noted that Applicant's amendment, while timely, was not a complete and proper reply as the condition of the application required. The Decision also informed Applicant that after filing the Notice of Appeal, Applicant failed to timely file an Appeal Brief. Since no claims were allowed, the application became abandoned on the date the brief was due: November 12, 2005.

The present petitions

Petition to Accept Late Filing of Renewed Petition, Petition for Equitable Tolling of Statutory Period for Response, and Filing of Appeal Brief

Applicant files the above referenced petition and asserts that the September 1, 2006 Decision was not received. Petitioner requests entry of the petition and attached documents as having been timely-filed.

Decision

With the instant petition, Applicant has demonstrated non-receipt of the September 1, 2006 Decision by a preponderance of the evidence.

In view of the foregoing, the petition is granted. Petitioner asserts that the he first became aware of the Decision on February 6, 2007. The present petition was filed March 12, 2007. Accordingly, the petition is accepted as having been timely-filed.

Petitioner is advised that there is no fee associated with this petition. The petition fee ($130.00) has been refunded to deposit account 50-0206 as authorized in the petition. Petitioner is also advised that the current fee for a petition under 37 CFR 1.182 increased to $400.00 effective December 8, 2004.

Renewed Petition to Withdraw Holding of Abandonment Based on Evidence that a Reply was Timely Filed Pursuant to 37 C.F.R. § 1.181(a)

Applicant files the present petition to withdraw the holding of abandonment and asserts that the Notice of Abandonment informed Applicant that this Office never received a reply to the final Office action mailed March 10, 2005. A review of the Notice of Abandonment reveals that this office held the application abandoned for "Applicant's failure to timely file a proper reply to the Office letter mailed on 10 March 2005." "No reply has been received".

The Notice of Abandonment; Abandonment of the application and the Amendment

Applicant is advised that the reply to the March 10, 2005 Office action, was located and entered into this application file. Upon receiving Applicant's petition on November 11, 2005, and upon request by this Attorney, the reply was reviewed by the Examiner, who determined that the reply failed to place the application in condition for allowance. Accordingly, and as noted in the September 1, 2006 Decision, Applicant's amendment, while timely, was not a complete and proper reply as the condition of the application required.

Applicant is advised that the application became abandoned by operation of law for failure to prosecute the application within six months of the mail date of the Notice. The Notice of Abandonment is mailed by this office as a courtesy, and has no effect on the status of the application. The application is abandoned for failure to prosecute the application within six months of the mail date of the Office action, regardless of whether a Notice of Abandonment is mailed or received in an application. See, 35 U.S.C. § 133.

Further to this, the MPEP 711.03(c)(I), Petition to Withdraw Holding of Abandonment, States:

> Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See Lorenz v. Finkl, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); Krahn v. Commissioner, 15 USPQ2d 1823, 1824 (E.D. Va 1990); In re Application of Fischer, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). (Emphasis supplied).

The Notice of Appeal

An applicant filing a Notice of Appeal is required to file an appeal brief within two months of the filing of the Notice of Appeal. See, 37 CFR 41.37. Extensions of time are available. Unlike an Office action, which is mailed from this office and wherein this Office sets the period for reply, it is the Applicant who sets the period for filing the appeal brief by filing the Notice of Appeal.

The MPEP, 1205.01, Time for Filing Appeal Brief, provides, in relevant part:

> 37 CFR 41.37(a) provides 2 months from the date of the notice of appeal for the appellant to file an appeal brief and the appeal brief fee set forth in 37 CFR 41.20(b)(2).
> The usual period of time in which appellant must file his or her brief is 2 months from the date of appeal. The Office date of receipt of the notice of appeal (and not the date indicated on any Certificate of Mailing under 37 CFR 1.8) is the date from which this 2-month time period is measured. See MPEP § 512. If the notice of appeal is filed in accordance with 37 CFR 1.10 using the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS), the date of deposit with the USPS is the date from which this 2-month time period is measured because the date of deposit shown by the "date in" on the "Express Mail" label or other official USPS notation is considered to be the date of receipt. See MPEP § 513.
>
> FAILURE TO TIMELY FILE AN APPEAL BRIEF
>
> With the exception of a declaration of an interference or suggestion of claims for an interference and timely copying of claims for an interference, the appeal ordinarily will be dismissed if the brief and the fee under 37 CFR 41.20(b)(2) are not filed within the period provided by 37 CFR 41.37(a) or within such additional time as may be properly extended.
>
> A brief must be filed to preserve appellant's right to the appealed claims, notwithstanding circumstances such as:
> (A) the possibility or imminence of an interference involving the subject application, but not resulting in withdrawal of the final rejection prior to the brief's due date;
> (B) the filing of a petition to invoke the supervisory authority of the Director under 37 CFR 1.181;
> (C) the filing of an amendment, even if it is one which the examiner previously has indicated may place one or more claims in condition for allowance, unless the examiner, in acting on the amendment, disposes of all issues on appeal;
> (D) the receipt of a letter from the examiner stating that prosecution is suspended, without the examiner withdrawing the final rejection from which appeal has been taken or suggesting claims for an interference, and without an administrative patent judge declaring an interference with the subject application.

Here, Applicant filed a Notice of Appeal and an Amendment; however, and as stated above, the filing of the amendment did not relieve the Applicant of the requirement to timely file the appeal brief. Applicant argues that no Notice of Appeal was of record in this case; however, it was

Applicant who filed the Notice of Appeal thereby starting the period for filing the Appeal Brief. Applicant may not assert both that a Notice of Appeal was timely filed (regardless of whether the Notice of Appeal had been entered in the proper application file), but that Applicant was relieved of the responsibility to timely file an Appeal Brief because the Notice of Appeal was not of record in this case. Moreover, and as Applicant has admitted, it was Applicant who mis-identified the Application file in which to place the Notice of Appeal.

Petitioner's reliance upon oral advice

Petitioner asserts that its representatives were twice informed by PTO Officials at the Petitions Branch that they did not need to file the Appeal Brief, but rather they needed to wait until the PTO acted on the petition.

This Office regrets any misinformation that it may have provided Petitioner's representatives. However, as stated in 37 CFR 1.2:

> All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

In this instance, in accordance with 37 CFR 1.2, Applicant's assertion that Applicant received contradictory oral advice from this Office does not warrant withdrawing the holding of abandonment. It is Applicant's responsibility to file a complete and proper reply to an office action in the first instance.

The Renewed Petition to Withdraw Holding of Abandonment is dismissed.

Petition for Equitable Tolling of the Statutory Period for Response Due to PTO Error and Detrimental Reliance on that Error by Applicant Pursuant to 37 C.F.R. 1.182

Applicant files the present petition under 37 CFR 1.182 and reiterates from the petition to withdraw the holding of abandonment: Petitioner's efforts telephoning this Office for clarification, and in filing the Petition to Withdraw the Holding of Abandonment, even while time remained within the maximum extendable period, for timely filing an appeal brief. Petitioner asserts that it was reasonable for petitioner to wait until the PTO acted on the petition and informed Petitioner whether the PTO agreed that a response was timely filed. Petition at p.4. Finally, petitioner requests equitable tolling of the statutory period for filing the appeal brief, and either withdraw the Notice of Abandonment or revival the application, whichever is appropriate.

The MPEP 711.03(c), Petitions relating to Abandonment, provides:

> Delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP, however, does not constitute "unavoidable" delay. See Haines, 673 F. Supp. at 317, 5 USPQ2d at 1132; 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). For example, as 37 CFR 1.116 and 1.135(b) are manifest that proceedings concerning an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal, **a delay is not "unavoidable" when the 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.** Likewise, as a "reasonably prudent person" would file papers or fees in compliance with 37 CFR 1.8 or 1.10 to ensure their timely filing in the USPTO, as well as preserve adequate evidence of such filing, a delay caused by an applicant's failure to file papers or fees in compliance with 37 CFR 1.8 and 1.10 does not constitute "unavoidable" delay. See Krahn, 15 USPQ2d at 1825. Finally, 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: (A) the applicant's reliance upon oral advice from USPTO employees; or (B) the USPTO's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action. See, In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985) (Emphasis supplied).

Here, Applicant was simply unaware of the patent statute, rules of practice and/or the MPEP. Applicant is incorrect to await an action by this Office before filing the Appeal Brief, which would have avoided abandonment of the application. Also, Applicant relied upon the Notice of Abandonment which has no bearing on the status of the application. The application becomes abandoned by operation of law. Applicant also relied upon oral advice, of which the rules state no attention will be given. (See, 37 CFR 1.2).

Equitable tolling of the statutory period

Petitioner is advised that the use of "shall" appears in 35 USC § 133 pertaining to the time for prosecuting an application with the PTO. It is well settled that the use of "shall" in a statute is the language of command, and where the directions of a statute are mandatory, strict compliance with the statutory terms is essential. Farrel Corp. v. U.S. Int'l Trade Comm'n, 942 F.2d 1147, 20 USPQ2d 1912 (Fed. Cir. 1991). That is, it is mandatory that the Director regard the application as abandoned. See BEC Pressure Controls Corp. v. Dwyer Instruments, Inc., 380 F.Supp. 1397, 1399, 182 USPQ 190, 192 (N.D. Ind. 1974). Additionally, and unlike the situation in Bull, S.A., v Corner, 55 F.3d 678 (CADC 1995), or Delgar Inc., v Schuyer, 172 USPQ 513 (D.D.C. 1971), Applicant was simply was unaware of the patent statute, rules of practice and MPEP. Applicant, a registered practitioner, is tasked with knowledge of the patent laws, rules, and MPEP. As such, the request to toll the statutory period may not be granted.

Request to revive the application

The MPEP 1215.01 provides

> If the time for filing a brief has passed and the application has consequently become abandoned, the applicant may petition to revive the application under 37 CFR 1.137, as in other cases of abandonment. See MPEP § 711.03(c). In addition to the petition and petition fee, appellant must file:

(B) An appeal brief and the appeal brief fee to reinstate the appeal. A proper brief and the required fee must be filed before the petition will be considered on its merits.

Applicant has filed an appeal brief and authorized this Office to charge any additional such fees to Applicant's deposit account; however, Applicant has not specified under which rule revival of the application is sought: 37 CFR 1.137(a), or 37 CFR 1.137(b).

Accordingly, the petition to revive the application is held in abeyance pending clarification by Applicant as to which rule under which Applicant seeks revival of the application.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

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SEP 20 2007

OFFICE OF PETITIONS

In re Application of Paul A. Averback Application No. 10/146130 Filing or 371(c) Date: 05/16/2002 For: COMPOSITION FOR PREVENTING CELL DEATH AND/OR TISSUE NECROSIS RESULTING FROM CONTACT WITH NEURAL THREAD PROTEINS	: : : : : : : : :	DECISION ON PETITION

This is a decision on the petition to revive the application under the unintentional provisions of 37 CFR 1.137(b), filed July 12, 2007.

The Petition is **granted**.

The above-identified application became abandoned for failure to file an Appeal Brief after filing a Notice of Appeal. A final Office action was mailed March 10, 2005. Applicant filed and Amendment and a Notice of Appeal on September 12, 2005. The Amendment failed to place the application in condition for allowance. Upon filing the Notice of Appeal, Applicant was given two (2) months within which to file an Appeal Brief. Extensions of time under 3 CFR 1.136(a) were available. Applicant failed to file an Appeal Brief. Since no claims were allowed, the application became abandoned on the date the brief was due: November 12, 2005. See, 37 CFR 41.37 and MPEP 1205.01.

Applicant files the present request for reconsideration and an Appeal Brief. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that the petition includes (1) the reply in the form of an Appeal Brief; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed. Accord MPEP 1215.04.

The application is being referred to Technology Center Art Unit 1649 for processing of the Appeal Brief.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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)
6,734,424	2004-05-11	10/146,134	2002-05-16	3958US1/NAT

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	/Charles B. Katz/	Date (YYYY-MM-DD)	2008-06-26
Name	Charles B. Katz	Registration Number	36564

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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6734424
Issue Date: May 11,2004
Application No. 10146134
Filed: May 16,2002
Attorney Docket No. 41692

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 26,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 26,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in 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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STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Cai et al.	:	
Application No. 10/146,136	:	
Filed: May 16, 2002	:	
Attorney Docket No.	:	
1735.0660001/RWE/CJW		

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3282.

This matter is now being referred to Technology Center 1600 for consideration of the Amendment under 37 CFR 1.312 concurrently submitted.

Liana Chase

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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WASHINGTON DC 20005

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Sui Xiong Cai et al	:
Application No. 10/146,136	:
Filed: May 16, 2002	:
Attorney Docket No. 1735.0660001/RWE/CJW	:

This is a decision on the petition, filed May 27, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 13, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 1625 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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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. _____

Date : May 27, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Sui Xiong Cai et al
Application No. :10/146,136
Filed :May 16, 2002

The above-identified application has been assigned Patent No. 6,900,325 and an issue date of May 31, 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 31, 2005:

> "All reference to Patent No. 6,900,325 to Sui Xiong Cai et al of California for SUBSTITUTED COUMARINS AND QUINOLINES AND ANALOGS AS ACTIVATORS OF CASPASES AND INDUCERS OF APOPTOSIS AND THE USE THEREOF appearing in the Gazette of May 31, 2005 should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03, (FAX-273-5468
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038)
Duane Davis P/OPC MDE-7D89
Tamara Greene, ST-8C13

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THOMAS G. FERENCE
INTERPHASE TECHNOLOGIES, INC.
P.O. BOX 5223
ESSEX JUNCTION, VT 05453

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OCT 27 2005

OFFICE OF PETITIONS

In re Application of	:	
William J. Cottrell	:	
Application No. 10/146,156	:	ON PETITION
Filed: May 15, 2002	:	
Attorney Docket No.	:	

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 November 18, 2004, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 19, 2005.

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 $510 extension of time submitted with the petition 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.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2877 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc:

Downs Rachlin Martin PLLC
199 Main Street
P.O. Box 190
Burlington, VT 05402-0190

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Paper No. 9

E.I. DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON, DE 19805

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JAN 2 2 2004
OFFICE OF PETITIONS

In re Application of	:	
Milic, et al.	:	
Application No. 10/146,162	:	ON PETITION
Filed: May 15, 2002	:	
Attorney Docket No. FA0931 US NA	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 14, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed June 19, 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 August 20, 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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HAYNES AND BOONE LLP
901 MAIN STREET
SUITE 3100
DALLAS, TX 75202

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MAY 0 4 2006

OFFICE OF PETITIONS

In re Application of	:	
Robert J. Carroll, et al	:	
Application No. 10/146,168	:	DECISION ON PETITION
Filed: May 15, 2002	:	TO WITHDRAW
Attorney Docket No. 29370.10	:	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 4, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to the attorneys appearing in the Power of Attorney for Patent Application received on May 15, 2002, as well as the attorneys associated with Customer Number 27683, has been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

There is no indication in the file record that Mr. Timothy F. Bliss, the attorney signing the request to withdraw as attorney on behalf of himself and all the other attorneys associated with Customer Number 27683 was ever given a written power of attorney to prosecute this application nor does it appear that he is associated with the above-noted Customer Number. However, in view of the acceptance of the revocation and power of attorney filed on October 20, 2005 in this case, this is now a moot issue.

All future communications from the Office will be directed to the new address listed below address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 3218.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Schwegman Lundberg, Woessner & Kluth PA
P O Box 2938
Minneapolis, MN 55402

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Paper No. 4

GLAXOSMITHKLINE
Corporate Intellectual Property - UW2220
P.O. Box 1539
King of Prussia, PA 19406-0939

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OFFICE OF PETITIONS

In re Application of	:	
Pelus et al.	:	
Application No. 10/146,182	:	Decision on Petition
Filed: May 15, 2002	:	
Attorney Docket No. P50161 X1 D2	:	

This is a decision on the 'Petition to Establish Prior Receipt in the U.S. Patent and Trademark Office of Items Considered as Omitted by the U.S. Patent and Trademark Office - Response to "Notice of Omitted Items",' filed January 21, 2003. Pursuant to 37 CFR 1.53(e), petitioner requests review of the determination that pages 48-53 of the specification were omitted on filing of the above-identified application.

Application papers in the above-identified application were deposited on May 15, 2002. On November 22, 2002, the Office mailed a "Notice of Omitted Item(s) in a Nonprovisional Application," advising applicants that the application papers had been accorded a filing date of May 15, 2002; however, pp. 48-53 of the specification appeared to have been omitted from the application.

In response, applicants timely filed the instant petition (and petition fee). Applicants assert that pages 48-53 of the specification were in fact deposited with the Office with the original application papers filed May 15, 2002. In support thereof, applicants submitted a copy of their date stamped return postcard receipt. The petition did not include replacement copies of these pages.

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 supports a conclusion that 75 pages of specification were among the papers filed in the Office on May 15, 2002. However, on petition, petitioner has not supplied copies of pages 48-53 as he maintains they were filed on May 15, 2002. Receipt of those pages of specification is required before the Office can conclude that those pages along with the specification pages presently received in the Office constitute the 75 pages of specification identified on the postcard.

Furthermore, receipt of replacement copies of those pages is necessary to continue prosecution of the application if the petition is granted.

Accordingly, the petition is **dismissed** without prejudice to reconsideration upon the submission of omitted pages 48-53 of the specification.

Petitioner is given **ONE (1) MONTH** from the mailing date of this decision to submit pages 48-53 of the specification as petitioner maintains they were originally filed. This period is not extendable under 37 CFR 1.136(a).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450[1]

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA

Telephone inquiries related to this decision should be directed to Petitions Attorney Nancy Johnson at 703-305-0309.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

Nancy Johnson
Petitions Attorney
Office of Petitions

[1] Effective May 1, 2003, the United States Patent and Trademark Office has a new address for some mail. See Correspondence with the United States Patent and Trademark Office, 68 Fed. Reg. 14332 (March 25, 2003).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 4

KIRTON AND MCCONKIE
1800 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
P O BOX 45120
SALT LAKE CITY UT 84145-0120

MAIL

OCT - 9 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Hortense K. Nelson, et al.
Application No.: 10/146,192
Filed: May 15, 2002
For: **PROVIDING A MULTI-TIER ENTERPRISE LEVEL APPLICATION**

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P. §708.02(VIII)

This is a decision on the petition, filed September 22, 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.

Applicant's submission is deficient in that it does not comply with items (D), and (E) above:

(1) Applicant's submission of "potentially relevant reference" does not comply with item (D), which requires "the references deemed **most closely related** to the subject matter encompassed by the claims"; so do applicant's statements, such as "Boyd is largely unrelated to the present invention" (emphasis added).

(2) Applicant's submission fails to comply with item (E) in that:

- Applicant's submission which includes the prior art abstracts, the submission being examined as a whole, does not satisfy the requirement of "a **detailed discussion** of the references." The term "abstract" means "a summary of points... usually presented in skeletal form" (see Webster's Ninth New Collegiate Dictionary); therefore, the submission of the abstracts of the references does not meet the requirement of item (E).

- To comply with the requirement of "a **detailed discussion** of the references, which discussion points out, with the **particularity** required by 37 CFR 1.111(b) and (c), **how** the claimed subject matter is **patentable** over the references," applicant's submission must at least compare prior art references with the claimed invention (claim limitations should be in quotation marks to differentiate them from general statements); for example, what elements of the references would read on the claim limitations, and what would not.

Here, Applicant's submission includes statements, such as "Leek does not teach or suggest a system... as taught in independent claim 1 of the present," or "one ordinary skilled in the art would not look to the Leek reference..." which are legal conclusions in nature. In addition, there is no comparison between the claim limitations of claims 1, 14 and 15 and the disclosure of each of the references. It appears that applicant's discussion is not **detailed** "with the **particularity** required by 37 CFR 1.111(b) and (c), **how** the claimed subject matter is **patentable** over the references" because the references provided are only "potentially relevant," not "**most closely related** to the subject matter encompassed by the claims" as required by item (D).

For the above stated reasons, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MAIL

Paper No. 6

FEB 04 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

KIRTON AND MCCONKIE
1800 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
P O BOX 45120
SALT LAKE CITY UT 84145-0120

In re Application of: Hortense K. Nelson, et al. Application No.: 10/146,192 Filed: May 15, 2002 For: **PROVIDING A MULTI-TIER ENTERPRISE LEVEL APPLICATION**	**DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P. §708.02(VIII)**

This is a decision on the petition, filed September 22, 2003 and supplemented by Petitioner's submission dated December 12, 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.

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.

Petitioner's submission dated December 12, 2003 cures the deficiencies in the original Petition noted in the decision mailed October 09, 2003. Accordingly, the Petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for promptly examining this application out of turn according to the procedures set forth in M.P.E.P. §708.02.

Bot LeDynh, J.D., Ph.D.
Special Programs Examiner

Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 305-0651

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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C. Douglass Thomas
BEYER WEAVER & THOMAS LLP
P.O. Box 70250
Oakland, CA 94612-0250

MAILED

MAY 3 1 2005

Technology Center 2100

In re Application of:
Nicholas Ryan
Application No. 10/146,207
Filed: May 14, 2002
For: SYSTEM AND METHOD FOR IMPOSING SECURITY ON COPIES OF SECURED ITEMS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed January 10, 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

cc: John S. Ferrell
CARR & FERRELL LLP
2200 Geng Road
Palo Alto, CA 94303

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO CA 94303

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APR 0 4 2007

OFFICE OF PETITIONS

In re Application of	:	
Nicholas RYAN	:	
Application No. 10/146,207	:	DECISION ON PETITION
Filed: May 14, 2002	:	TO WITHDRAW
Attorney Docket No. SSL1P006	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 20, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Susan Yee of CARR & FERRELL LLP has been revoked by the assignee of the patent application on February 16, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **STERNE, KESSLER, GOLDSTEIN & FOX LLP**
1100 NEW YORK AVENUE, NW
WASHINGTON, DC 20005

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

SLATER & MATSIL, L.L.P.
17950 PRESTON RD, SUITE 1000
DALLAS, TX 75252-5793

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OCT 22 2004

OFFICE OF PETITIONS

In re Application of :
Philip A. Parker :
Application No. 10/146,211 : ON PETITION
Filed: May 15, 2002 :
Attorney Docket No. PAP-006 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 20, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed June 17, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 18, 2002. A Notice of Abandonment was mailed on December 19, 2003.

The file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
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

MAR 31 2003

MAILED

MAR 31 2003

OFFICE OF THE DIRECTOR
TC 3600

Manatt, Phelps & Phillips, LLP
11355 West Olympic Boulevard
Los Angeles, CA 90064

Paper No. 4

In re application of Koichi Takamura Application No. 10/146,293 Filed: May 14, 2002 For: POLYMER MODIFIED ASPHALT EMULSIONS FOR TREATMENT OF ROAD SURFACES	: : : : :	**DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

This is in response to the petition filed on March 6, 2003 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 filed March 6, 2003 fails to adequately meet requirement (E) above. The petition fails to provide a detailed discussion of the cited references and how the claimed subject matter is patentable over the cited references in accordance with 37 CFR 1.111(b) and (c). It is required that applicant provide a more detailed discussion of how the claimed subject matter is patentable over each of these references.

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 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.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868
(703) 605-0586

SNM/tpl: 3/28/03

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. 18

DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
4 EMBARCADERO CENTER
SUITE 3400
SAN FRANCISCO, CA 94111

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AUG 3 0 2004

OFFICE OF PETITIONS

In re Application of :
Koichi Takamura :
Application No. 10/146,293 :
Filed: May 14, 2002 :
Attorney Docket No. 22847-033 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 16, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed December 16, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 17, 2004.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), it will be interpreted as the required statement. Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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 $475 extension of time submitted with the petition on August 16, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account number 50-2319.

The Power of Attorney and Change of Correspondence Address has been accepted and recorded.

Receipt is acknowledged of the Amendment filed August 16, 2004, with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

The application file is being forwarded to Technology Center 3600, Art Unit 3671 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 8

DONALD W. MEEKER
PATENT AGENT
924 EAST OCEAN FRONT, # E
NEWPORT BEACH, CA 92661

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AUG 1 0 2007

OFFICE OF PETITIONS

In re Application of :
Shahin Tadayon :
Application No. 10/146,330 : ON PETITION
Filed: May 13, 2002 :
Attorney Docket No. None :

This is a decision on the petition to revive the above-identified application under the provisions of 37 CFR 1.137(b), filed March 10, 2007.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 7, 2003. A Notice of Abandonment was mailed on May 14, 2004. On March 10, 2007, the present petition was filed.

The above-identified application has been abandoned for an extended period of time. The U.S. 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). 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 petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 1746 for consideration of the amendment filed March 10, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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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DINSMORE & SHOHL LLP
ONE DAYTON CENTRE, ONE SOUTH MAIN STREET
SUITE 1300
DAYTON OH 45402-2023

MAILED

SEP 23 2009

OFFICE OF PETITIONS

In re Application of	:	
Shahin Tadayon	:	
Application No. 10/146,330	:	ON PETITION
Filed: May 13, 2002	:	
Attorney Docket No. AJW 0002	:	
PA/50029.3	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 14, 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 final rejection mailed November 1, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing Application No. 12/502,788, filed July 14, 2009.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

NOTICE RE: CERTIFICATES OF CORRECTION

DATE : 4/12/05 **Paper No.:** _____

TO : **Supervisor, Art Unit** 2814

SUBJECT : Certificate of Correction Request in Patent No.: 10/146,353 6,846,702 B2

A response to the following question is requested with respect to the accompanying request for a certificate of correction.

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

A Green

PLEASE COMPLETE THIS FORM AND RETURN WITH FILE, WITHIN 7 DAYS, TO CERTIFICATES OF CORRECTION BRANCH - PK 3-915/922 PALM LOCATION 7580 - TEL. N0. 305-8309

THANK YOU FOR YOUR ASSISTANCE!

Note your decision by placing a check mark in the appropriate box below, indicating whether all changes requested in the Request for Certificate of Correction should be applied. Please specify which changes should not be applied and indicate the reason(s) for denial, in the "Comments" section below.

☒ **YES** ☐ **NO**

☒ **Comments:** The requested changes do not introduce any new matter issues and the ~~sop~~ scope or meaning of the claims are not effected.

Wael Fahmy

Supervisor

2814

Art Unit

PTOL-306 (REV. 2/02) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

Copied from 10146358 on 05/03/2005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6652622
Issue Date: November 25,2003
Application No. 10146393
Filed: May 14,2002
Attorney Docket No. 273/007

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 22,2009 ,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 22,2009 . 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.

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)
6702998	2004-03-09	10146405	2002-05-14	03194-8-001100

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	/Gregory E. Conner/	Date (YYYY-MM-DD)	2008-11-21
Name	Gregory E. Conner		

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. 6702998
Issue Date: March 9,2004
Application No. 10146405
Filed: May 14,2002
Attorney Docket No. GEC-001-1US

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed November 21,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 21,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in 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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Paper No. 9

John S. Pratt
Kilpatrick Stockton
1100 Peachtree Street
Suite 2800
Atlanta, GA 30309

COPY MAILED
DEC 15 2003
OFFICE OF PETITIONS

In re Application of	:	ON PETITION
Xiaognag Peng	:	
Application No. 10/146,420	:	
Filed: May 13, 2002	:	
Attorney Docket No. ARK007/02331A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 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 Notice to File Corrected Application Papers mailed June 17, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 18, 2002.

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 Division for further processing.

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. ____

FISH & RICHARDSON PC
225 FRANKLIN STREET
BOSTON, MA 02110

COPY MAILED

JUL 2 3 2004

OFFICE OF PETITIONS

In re Application of	:	
John Saxelby et al	:	
Application No. 10/146,433	:	DECISION GRANTING PETITION
Filed: May 15, 2002	:	UNDER 37 CFR 313(c)(2)
Attorney Docket No. 00614-106002	:	

This is a decision on the petition, filed July 22, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 14, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

This matter is being referred to Technology Center AU 2827 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks

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
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Alexandria, VA 22313-1450
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FISH & RICHARDSON PC
225 FRANKLIN STREET
BOSTON, MA 02110

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DEC 15 2004

OFFICE OF PETITIONS

In re Application of	:	
John Saxelby et al	:	
Application No. 10/146,433	:	DECISION GRANTING PETITION
Filed: May 15, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 00614-106002	:	

This is a decision on the petition, filed December 13, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 8, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2829 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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FEB 0 3 2003

Technology Center 2100

Paper No. 6

Stephen C. Durant
Morrison & Foerster LLP
425 Market Street
San Francisco, California 94025

In re Application of: Edgar Codd et al.	)	
Application No. 10/146,449	)	DECISION ON PETITION TO
Filed: May 14, 2002	)	MAKE SPECIAL UNDER 37
For: DELTA MODEL PROCESSING	)	C.F.R. §1.102(c) AND MPEP §
LOGIC REPRESENTATION AND	)	708.02 (IV): APPLICANT'S AGE
EXECUTION SYSTEM	)	

This is a decision on the petition, filed August 19, 2002, under 37 C.F.R. §1.102(c) and M.P.E.P. §708.02(IV): Applicant's Age, to make the above-identified application special.

A grantable petition to make special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P. § 708.02, Section IV must include a showing, as by a birth certificate or the applicant's statement, that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a statement from a medical practitioner that applicant, Edgar Codd, is 79 years of age, thereby establishing that applicant is sixty five (65) years of age or more. Accordingly, the petition is **GRANTED.**

The application is being forwarded to the examiner for expedited prosecution.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 306-4160

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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TEXAS INSTRUMENTS
INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

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JUN 30 2006
OFFICE OF PETITIONS

In re Application of

Mehrotra, et al.

Application No. 10/146,457

Filed: May 14, 2002

Attorney Docket No. TI-33363

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed November 22, 2004.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on January 15, 2004, after it was believed that no response was received to the Notification of Non-Compliance with 37 CFR 1.192(c) mailed December 15, 2003. The notice allowed a shortened period for reply of one (1) month 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 November 10, 2004, indicating that a reply to the Notification of Non-Compliance with 37 CFR 1.192(c) was not received.

The instant petition maintains that the response to the Notification of Non-Compliance with 37 CFR 1.192(c) was filed on January 9, 2004. A copy of the response containing a certificate of mailing dated January 6, 2004, accompanied the petition. Ms. Ann Trent signed the certificate of mailing. It is noted that a statement of personal knowledge from Ms. Trent regarding the mailing of the response did not accompany the petition, but that a copy of the Office date-stamp postcard whereby the Office acknowledged having received the response on January 9, 2004, also accompanied the petition. The abandonment is being withdrawn on the basis of the Office date-stamped postcard receipt.

Based on the aforementioned, it appears that the application was improperly held abandoned as a proper response was received prior to expiration of the period for reply. The holding of abandonment is withdrawn, accordingly.

The application file is being forwarded Technology Center 2800, GAU 2813, for further processing, including handling of the appeal brief filed October 27, 2003, and amendments thereto filed January 9, 2004.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

60/146,473

Date	: 8/1/2008
Patent No.	: 7,335,467 B2
Inventor(s)	: Scanlan et al.
Issue Date	: February 26, 2008
Title	: **BREAST CANCER ANTIGENS**
Doc./File No.	: **L00461.70130.US (JRV**

Re: Reconsideration for Certificate of Correction

Reconsideration has been given your request for a certificate of correction, for the above-identified patent under the provisions of Rule 1.322 and 1.323.

In response to your communication regarding item (75) Inventors, your request is again denied. Only the resident of the inventor is printed, for example, Ivan Gout, is presently a resident of London, therefore the ***city*** and the ***country*** will be printed as London (GB) and not London (UA) as requested, Ivan Gout is a citizen of (UA) which is not the country of London. Therefore, the printing of the citizenship of the applicant on the title page is not a printing error. No correction is in order here under 3.22 or 3.23.

Ernest C. White, *LIE* (703) 308-9390 x122
Mary F. Diggs, *Supervisor* (703) 308-9390 x125
Decisions & Certificates of Correction Branch

John R. Van Amsterdam
c/o Wolf, Greenfield & Sacks, P.C.
Federal Reserve Plaza
600 Atlantic Avenue
Boston MA 02210-2211

ecw

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 27, 2006

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/146477 Patent No.: 7,117,512 B1

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Elisha Evans

Certificates of Correction Branch

703-308-9390 ext. 110

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

William Korsul

SPE

2627

Art Unit

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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THE FIRM OF KARL F. ROSS
5676 RIVERDALE AVENUE
P O BOX 900
RIVERDALE (BRONX), NY 10471-0900

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OCT 1 4 2005

OFFICE OF PETITIONS

In re Application of	:
Finn Skou Pedersen et al	: DECISION ON PETITIONS
Application No. 10/146,483	: UNDER 37 CFR 1.78(a)(3)
Filed: October 26, 2001	: AND UNDER 37 CFR 1.55(c)
Attorney Docket No. 22045	:

This is a decision on the petition, filed February 4, 2005, which is being treated as a petition under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior-filed nonprovisional Application No. 10/129,391, filed October 14, 2003, and under 35 U.S.C. § 119(a)-(d) for the benefit of prior-filed Danish Application No. PA 1999 00589, filed April 29, 1999, as set forth in the concurrently filed amendment.

The petitions are **GRANTED**.

As to the benefit claim under 37 CFR 1.78(a)(3):

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after

expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

As to the benefit claim under 37 CFR 1.55(c):

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, **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 Director 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 above-identified pending nonprovisional application was filed on October 26, 2001, which is after November 29, 2000, and intermediate Application No. 10/129,391, which is the national stage entry of PCT Application No. PCT/EP00/03903, was filed on April 29, 2000. The PCT application was filed within 12 months of April 29, 1999, which is the earliest filing date of the foreign application to which benefit is claimed. The declaration filed on July 18, 2002 also identifies the foreign application for which priority is claimed by application number, country and filing date. The $1,370 surcharge required by 37 CFR 1.17(t) has been received. Lastly, petitioner has provided an adequate statement of unintentional delay.[1]

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 includes the priority claim to the prior-filed applications, has been mailed under separate cover.

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 1.55(c) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) and 35 § U.S.C. 119(a)-(d) and 37 CFR 1.55(a)(1) 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.

---

[1] 37 CFR 1.78(a)(3) and 37 CFR 1.55(c) require a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and 37 CFR 1.55(a)(1) 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) and 37 CFR 1.55(c), the statement contained in the instant petition is being construed as the required statement.

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.

This matter is being referred to Technology Center Art Unit 1636 for consideration by the examiner of applicant's entitlement to claim benefit of priority to the above-noted, prior-filed applications.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 6

HAMILTON BROOK SMITH & REYNOLDS P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

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APR 1 0 2003

OFFICE OF PETITIONS

In re Application of :
Griffin K. Gothard et al :
Application No. 10/146,501 : DECISION GRANTING STATUS
Filed: May 14, 2002 : UNDER 37 CFR 1.47(A)
For: ANTENNA FOR ARRAY APPLICATIONS :

This is in response to the petition under 37 CFR 1.47(a), filed November 13, 2002.

The petition is granted.

Petitioner has shown that the non-signing inventors have refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to Petitions Examiner Wan Laymon at (703) 306-5685.

This application is being forwarded to Technology Center AU 2821 for examination in due course.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

KENNETH M. GAINEY
441 THRUSH DRIVE
SATELLITE BEACH, FL 32927

COPY MAILED

APR 1 0 2003

OFFICE OF PETITIONS

In re Application of
Gothard; Chiang; Snyder; Gainey; and Proctor Jr.
Application No. 10/146,501
Filed: May 14, 2002
For: ANTENNA FOR ARRAY APPLICATIONS

Dear Mr. Gainey:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Wan Laymon at (703) 306-5685. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
HAMILTON BROOK SMITH & REYNOLDS P.C.
530 VIRGINIA ROAD, PO BOX 9133
CONCORD, MA 01742-9133

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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CHRISTOPHER A. SNYDER
757 HYANNIS STREET N.E.
PALM BAY, FL 32907

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APR 1 0 2003

OFFICE OF PETITIONS

In re Application of
Gothard; Chiang; Snyder; Gainey; and Proctor Jr.
Application No. 10/146,501
Filed: May 14, 2002
For: ANTENNA FOR ARRAY APPLICATIONS

Dear Mr. Snyder:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Wan Laymon at (703) 306-5685. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
HAMILTON BROOK SMITH & REYNOLDS P.C.
530 VIRGINIA ROAD, PO BOX 9133
CONCORD, MA 01742-9133

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

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APR 10 2007

OFFICE OF PETITIONS

In re Application of
Griffin K. Gothard, et al.
Application No. 10/146,501
Filed: May 14, 2002
Attorney Docket No. 2479.2060-001

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed December 11, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "assignee discharged firm and request transfer", does not meet any of the conditions set forth in 37 CFR 10.40.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being

submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number). The power of attorney filed on February 8, 2007 does not include a proper chain of title.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

There is an outstanding Office action mailed October 31, 2006 that requires a reply form the applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: VOLPE AND KOENIG, PC
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
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530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

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NOV 26 2007

OFFICE OF PETITIONS

In re Application of	:	
Griffin K. Gothard, et al.	:	
Application No. 10/146,501	:	DECISION ON PETITION
Filed: May 14, 2002	:	TO WITHDRAW
Attorney Docket No. TAN-2-1517.02.US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed May 29, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by David J. Thibodeau, Jr. 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 are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise

April M. Wise
Petitions Examiner
Office of Petitions

cc: GRIFFIN K. GOTHARD
309 HARWOOD AVENUE
SATELLITE BEACH, FL 32934

cc: VOLPE & KOENIG, PC
UNITED PLAZA, SUIE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/146,501	05/14/2002	Griffin K. Gothard	TAN-2-1517.02.US

CONFIRMATION NO. 9406

POWER OF ATTORNEY NOTICE

21005
HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

OC000000026800470

Date Mailed: 11/19/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/29/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

UNITED STATES 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 11 2004

In re Application of	:	
Travis Berger et al.	:	
Serial No. 10/146,519	:	DECISION ON PETITION
Filed: May 13, 2002	:	TO WITHDRAW AS ATTORNEY
For: GARBAGE BAG SYSTEM	:	

By papers filed on April 9, 2004, counsel has petitioned to withdraw as attorney of record in this application.

The petition is GRANTED.

Applicant is advised that the correspondence address for this application is:

Travis Berger
220 West Washington
Fergus Falls, MN 56537

E. Rollins-Cross, Director
Technology Center 3700

Michael S. Neustel
Neustel Law Offices, Ltd.
2534 South University Drive, Suite 4
Fargo, ND 58103

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 06

Silicon Valley Patent Group LLP
Suite 360
2350 Mission College Boulevard
Santa Clara CA 95054

MAY 25 2004

In re Application of:	:	
Korec, *et al.*	:	DECISION ON PETITION TO
Application No. 10/146539	:	WITHDRAW HOLDING OF
Filed: May 14, 2002	:	ABANDONMENT
Attorney Docket No: SCX003-1D US	:	

This is a response to the request filed September 02, 2003, to withdraw the abandonment for the above-identified application. The request is being treated as a petition to withdraw holding of abandonment under 37 C.F.R. 1.181. A petition fee is not required under 37 C.F.R. 1.181.

A review of the file record indicates that a non-final Office action was mailed on December 18, 2002, setting a shortened statutory period for response to expire three month from the mail date thereof. A Notice of Abandonment was mailed on August 26, 2003.

The petition to withdraw the holding of abandonment is granted.

Petitioner asserts that on May 19, 2003, a response including an amendment and a two- month extension of time, was mailed to the United States Patent and Trademark Office (PTO) in response to the Office action of December 18, 2002. To support this assertion, petitioner has provided a copy of the response to the Office action and a copy of the return receipt postcard that acknowledges receipt by the United States Patent and Trademark Office (PTO) of the above-identified response on May 19, 2003.

A review of the application file record reveals that the above-identified response was not associated with the application file at the time the Notice of Abandonment was mailed but has since been matched therewith. The response of record bears a stamped receipt date of May 19, 2003.

For the above-stated reasons, 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 processing and entry of the response received on May 19, 2003. From there, the application will be forwarded to the examiner for appropriate action.

Inquiries related to this decision should be directed to Lissi Mojica Marquis at (571) 272-1596.

Sharon A. Gibson, Director
Technology 2800
Semiconductors, Electrical and Optical
Systems and Components

SAG/lmm

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Commissioner for Patents
United States Patent and Trademark Office
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SILLICON VALLEY PATENT GROUP LLP
SUITE 360
2350 MISSION COLLEGE BOULEVARD
SANTA CLARA, CA 95054

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JAN 3 1 2007

OFFICE OF PETITIONS

In re Application of	:	
Korec et al.	:	
Application No. 10/146,539	:	ON PETITION
Filed: May 14, 2002	:	
Attorney Docket No. SCX003-ID US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 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 the previously submitted Issue Fee Transmittal with payment of the issue and publication fees; (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

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

Haynes and Boone, LLP
IP Section
2323 Victory Avenue
SUITE 700
Dallas, TX 75219

Mail Date: 04/21/2010

Applicant	: Satomi Okazaki	: DECISION ON REQUEST FOR
Patent Number	: 7577425	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/146,548	: OF WYETH
Filed	: 05/15/2002	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

OIPE JC87
JUL 3 0 2002
PATENT & TRADEMARK OFFICE

COPY OF PAPERS
ORIGINALLY FILED

#3 MPH

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No.	00474-03
Applicant:	John C. Herr, et al.
Invention:	Sperm Cell Selection System
Serial No:	10/146,552
Filed:	May 15, 2002

Certificate Under 37 CFR 1.8(a)

I hereby certify that this correspondence, and all papers referred to herein, is being deposited with the United States Postal Service as first class mail in an envelope addressed to Assistant Commissioner for Patents, Washington, D.C. 20231

on July 26, 2002

Sue Ann Carr

RESPONSE TO NOTICE TO FILE MISSING PARTS

BOX MISSING PARTS
Assistant Commissioner for Patents
Washington, DC 20231

Dear Sir:

In response to the Notice to File Missing Parts dated June 25, 2002, attached are the following documents:

1. The return copy of the Notice to File Missing Parts;
2. A Combined Declaration and Power of Attorney executed by Inventors Kenneth L. Klotz and Alan B. Diekman;
3. Small Entity Statement;
4. Assignment documents with recordation cover sheets; and,
5. Fee Transmittal Sheet in duplicate.

OIPE JC87 JUL 3 0 2002

COPY OF PAPERS ORIGINALLY FILED

PTO/SB/17 (11-01)
Approved for use through 10/31/2002. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

FEE TRANSMITTAL for FY 2002

Patent fees are subject to annual revision.

[X] Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT ($) 145.00

Complete if Known	
Application Number	10/146,552
Filing Date	May 15, 2002
First Named Inventor	John C. Herr
Examiner Name	
Group Art Unit	
Attorney Docket No.	00474-03

METHOD OF PAYMENT *(check all that apply)*

[ ] Check [ ] Credit card [ ] Money Order [ ] Other [ ] None

[X] Deposit Account:

Deposit Account Number: 50-0423

Deposit Account Name:

The Commissioner is authorized to: *(check all that apply)*

[X] Charge fee(s) indicated below [ ] Credit any overpayments

[ ] Charge any additional fee(s) during the pendency of this application

[ ] Charge fee(s) indicated below, **except for the filing fee** to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
101	740	201	370	Utility filing fee	
106	330	206	165	Design filing fee	
107	510	207	255	Plant filing fee	
108	740	208	370	Reissue filing fee	
114	160	214	80	Provisional filing fee	

SUBTOTAL (1) ($)

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

	Extra Claims			Fee from below	Fee Paid
Total Claims		-20** =		X	=
Independent Claims		- 3** =		X	=
Multiple Dependent					=

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description
103	18	203	9	Claims in excess of 20
102	84	202	42	Independent claims in excess of 3
104	280	204	140	Multiple dependent claim, if not paid
109	84	209	42	** Reissue independent claims over original patent
110	18	210	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) ($)

***or number previously paid, if greater; For Reissues, see above*

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
105	130	205	65	Surcharge - late filing fee or oath	65.00
127	50	227	25	Surcharge - late provisional filing fee or cover sheet	
139	130	139	130	Non-English specification	
147	2,520	147	2,520	For filing a request for *ex parte* reexamination	
112	920*	112	920*	Requesting publication of SIR prior to Examiner action	
113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action	
115	110	215	55	Extension for reply within first month	
116	400	216	200	Extension for reply within second month	
117	920	217	460	Extension for reply within third month	
118	1,440	218	720	Extension for reply within fourth month	
128	1,960	228	980	Extension for reply within fifth month	
119	320	219	160	Notice of Appeal	
120	320	220	160	Filing a brief in support of an appeal	
121	280	221	140	Request for oral hearing	
138	1,510	138	1,510	Petition to institute a public use proceeding	
140	110	240	55	Petition to revive - unavoidable	
141	1,280	241	640	Petition to revive - unintentional	
142	1,280	242	640	Utility issue fee (or reissue)	
143	460	243	230	Design issue fee	
144	620	244	310	Plant issue fee	
122	130	122	130	Petitions to the Commissioner	
123	50	123	50	Processing fee under 37 CFR 1.17(q)	
126	180	126	180	Submission of Information Disclosure Stmt	
581	40	581	40	Recording each patent assignment per property (times number of properties)	80.00
146	740	246	370	Filing a submission after final rejection (37 CFR § 1.129(a))	
149	740	249	370	For each additional invention to be examined (37 CFR § 1.129(b))	
179	740	279	370	Request for Continued Examination (RCE)	
169	900	169	900	Request for expedited examination of a design application	

Other fee (specify) _____

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) ($) 145.00

SUBMITTED BY				Complete *(if applicable)*	
Name (Print/Type)	John P. Breen	*Registration No. (Attorney/Agent)*	38,833	*Telephone*	434-924-2175
Signature				*Date*	7/26/02

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

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
10/146,552	05/15/2002	John C. Herr	00474-03

CONFIRMATION NO. 7510

FORMALITIES LETTER

OC000000008346237

John P. Breen
University of Virginia Patent Foundation
Suite 1-110
1224 West Main Street
Charlottesville, VA 22903

OIPE JC87
JUL 3 0 2002
PATENT & TRADEMARK OFFICE

COPY OF PAPERS ORIGINALLY FILED

Date Mailed: 06/25/2002

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 signature of the following inventor(s) is missing from the oath or declaration:
  Kenneth L. Klotz and Alan B. Diekman
- 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.

A copy of this notice MUST be returned with the reply.

Celita

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

PATENT LAW GROUP LLP
2635 NORTH FIRST STREET
SUITE 223
SAN JOSE CA 95134

COPY MAILED

NOV 21 2007

OFFICE OF PETITIONS

In re Application of	:	
Michael Gauselmann	:	
Application No. 10/146,565	:	DECISION ON PETITION
Filed: May 14, 2002	:	
Attorney Docket No. ATR-A-102	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 7, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed June 2, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time were timely obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on September 6, 2006 (September 2, 2006, the due date, is a Saturday, and September 4, 2006 was a Federal holiday).

The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of a Notice of Appeal and fee of $500, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the final Office

action of June 2, 2006 is accepted as being unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,020 extension of time fee submitted February 9, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's credit card in due course.

This application is being referred to Technology Center AU 3714 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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#5

BROWNING BUSHMAN P.C.
SUITE 1800
5718 WESTHEIMER
HOUSTON, TX 77057

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MAR 1 1 2004

OFFICE OF PETITIONS

In re Application of
Spencer M. Nimberger et al
Application No. 10/146,594
Filed: May 15, 2002
Attorney Docket No. PG-84-3-1

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 9, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed June 12, 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 August 13, 2002.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The application file is being referred to the Office of Initial Patent Examination.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1-23-07

TO SPE OF : ART UNIT 2191

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/146604 Patent No.: 7020870

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Should claims be approved

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

E Young

Certificates of Correction Branch

703-308-9390 ext. 117

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- [x] Approved — All changes apply.
- [ ] Approved in Part — Specify below which changes do not apply.
- [ ] Denied — State the reasons for denial below.

Comments: _____

[signature]

SPE

Au 2191

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

CHRISTOPHER DEVRIES
GENERAL MOTORS CORPORATION
LEGAL STAFF, MAIL CODE 482-C23-B21
P.O. BOX 300
DETROIT, MI 48265-3000

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JUN 27 2005

OFFICE OF PETITIONS

In re Application of:	:	
Scott L. Williamson	:	
Application No. 10/146,614	:	DECISION ON
Filed: May 15, 2002	:	PETITION
Title of Invention:	:	
AUTOMOTIVE TIRE INFLATION BASED	:	
ON VEHICLE LOADING CONDITIONS	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 31, 2005, to revive the above-identified application. The delay in treating this petition is regretted.

The petition is **DISMISSED**.

Any further petition to revive the above-identified application (under 37 CFR 1.137(a)), must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under 37 CFR 1.137", and be addressed to Petitions Attorney Derek L. Woods. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely reply to the final Office action, mailed August 5, 2004. The Notice set a statutory period for reply of three (3) months. Extensions of time under 37 CFR 1.136(a) were available.

Applicant filed a reply in the form of an Amendmenton November 22, 2004; however, the Amendment failed to place the application in condition for allowance. Applicant was so notified in an Advisory Action, mailed December 23, 2004. The Advisory Action also informed Applicant that the period for reply continued to run from the mail date of the final rejection.

No timely and proper reply having been received, the above-identified application became abandoned November 6, 2004. Applicant subsequently filed an Amendment on May 4, 2005, after the application had become abandioned. A Notice of Abandonment was mailed on May 19, 2005.

Applicant files the instant petition to revive the application; however, the petition makes no reference to the November 22, 2004 Amendment. The petition does not otherwise include any response to the final rejection.

Applicable Law

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (**1**) the required reply (unless previously filed); (**2**) the petition fee required by 37 CFR 1.17(m); (**3**) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (**4**) if required, a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). Applicant lacks item (**1**).

As to item (1), Applicant has not submitted a reply to the August 5, 2004 Office action. Applicant must submit a reply to the Office action as part of the requirement for granting a petition under 37 CFR 1.137(b). If Applicant wishes to use the Amendment filed on May 4, 2005, as the reply to the Office action, Applicant should state this in a Request for Reconsideration.

The application file is an Image File Wrapper ("IFW") and, as such, no forwarding of the file is necessary.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Petitions Attorney
Office of Petitions