SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 15, 2006

TO SPE OF : ART UNIT 2195

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/146654 patent No.: 7,082,607

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: See the supplemental NOA mailed on 4/7/06

Allowed claims are 1-22

MENG-AL T. AN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

SPE 2195 **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

PILLSBURY WINTHROP LLP
INTELLECTUAL PROPERTY GROUP
1600 TYSONS BOULEVARD
MCLEAN, VA 22101

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MAY 31 2005

OFFICE OF PETITIONS

In re Application of :
Albert R. Wang et al :
Application No. 10/146,655 :
Filed: May 13, 2002 :
Attorney Docket No. 083818-0293240 TEN-016(U) :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

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

The petition is **DISMISSED**.

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

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

The instant petition fails to comply with item (1) above in that no notice or statement has been provided as to the filing date of the international application. Accordingly, before a decision can be rendered on the instant petition, petitioner must provide the filing date of the international application and must be accompanied by a 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
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

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OFFICE OF PETITIONS

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

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

Attachment: Petition for Revival of an Application for Patent Abandoned for Failure to Notify the Office of a Foreign or International Filing (37 1.137(f))

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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PILLSBURY WINTHROP LLP
INTELLECTUAL PROPERTY GROUP
1600 TYSONS BOULEVARD
MCLEAN, VA 22101

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JUL 15 2005

OFFICE OF PETITIONS

In re Application of :
Albert R. Wang et al :
Application No. 10/146,655 :
Filed: May 13, 2002 :
Attorney Docket No. 083818-0293240TEN-016(U) :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the renewed petition, filed June 9, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen months publication country on April 14, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen months publication country.

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

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

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

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

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

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

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

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

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

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

cc:

Mark J. Danielson
Pillsbury, Winthrop, Shaw, Pittman LLP
2475 Hanover Street
Palo Alto, CA 94304-1114

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Ms. Danute M. Bankaitis-Davis
3964 Pebble Beach Drive
Longmont, CO 80503

COPY MAILED

FEB 04 2003

OFFICE OF PETITIONS

In re Application of:
Robert A. Kay and Danute M. Bankaitis-Davis
Application No. 10/146,661
Filed: May 15, 2002
Title of Invention: METHOD OF CHARACTERIZING A HOMEOPATHIC PREPARATION

LETTER #6

Dear Mr. Bankaitis-Davis:

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: Ronald J. Baron, Esq.
HOFFMANN & BARON, LLP
6900 Jericho Turnpike
Syosset, NY 11791

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

Ronald J. Baron, Esq.
HOFFMANN & BARON, LLP
6900 Jericho Turnpike
Syosset, NY 11791

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FEB 04 2003

OFFICE OF PETITIONS

In re Application of:
Robert A. Kay and Danute M. Bankaitis-Davis
Application No. 10/146,661
Filed: May 15, 2002
Title of Invention: METHOD OF CHARACTERIZING A HOMEOPATHIC PREPARATION

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the Petition for Filing a Declaration by an Inventor on Behalf of Himself and a Second Inventor who Refuses to Sign (37 C.F.R. 1.47(a)), filed September 23, 2002, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **granted**.

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

Petitioner has shown that the non-signing inventors, Danute M. Bankaitis-Davis, refuses to sign the declaration after being presented with the above-identified application and declaration.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the 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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NEUROPACE, INC.
1375 SHOREBIRD WAY
MOUNTAIN VIEW, CA 94043

COPY MAILED

NOV 30 2006

OFFICE OF PETITIONS

In re Application of :
Javier Echauz et al :
Application No. 10/146,663 : DECISION GRANTING PETITION
Filed: May 13, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. N16-01 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 11, 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 18, 2005, as required by the Notice of Allowance and Fee(s) Due mailed May 18, 2005. A Notice of Abandonment was mailed on September 26, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue and publication fees ($1,400 and $300, respectively); (2) the $1,500 petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

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

the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

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

The application file is being referred to Publishing Division.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Mika Mayer
Morrison & Foerster LLP
755 Page Mill Road
Palo Alto, CA 94304-1018

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

PENDORF & CUTLIFF
POST OFFICE BOX: 20445
TAMPA FL 33622-0445

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OCT 2 1 2002

OFFICE OF PETITIONS

In re Application of	:	
Shanghvi et al.	:	DECISION GRANTING
Application No. 10/146,670	:	PETITION
Filed: 15 May, 2002	:	
Attorney Docket No. 3875.014	:	

This is a decision on the petition, filed on 4 October, 2002, requesting that the above-identified application, without drawings, be accorded a filing date of 15 May, 2002.

The application was filed on 15 May, 2002, without drawings.[1] Accordingly, on 18 June, 2002, Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application" stating that no filing date had been assigned because the application was deposited without drawings, and requiring drawings be filed if necessary. In response, on 19 October, 2002, petitioners filed one (1) sheet of drawings. Accordingly, the application was accorded a filing date of 19 October, 2002.

On 4 October, 2002, the present petition was filed. The petition states that the drawings are not necessary for an understanding of the subject matter sought to be patented. Petitioners request that the application, without drawings, be accorded a filing date of 15 May, 2002.

It has been PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention

[1] 35 U.S.C. § 113 (first sentence) requires a drawing "where necessary for the understanding of the subject matter sought to be patented."

under 35 U.S.C. 113 (first sentence).[2] A review of the record reveals that Claims 22-32 are method claims. Therefore, the present application is deemed to be an application which does not require a drawing for an understanding of the invention. Accordingly, the application, as filed, is entitled to a filing date.

The petition is granted. The $130.00 petition fee is unnecessary and will be credited to counsel's deposit account, No. 14-0877.

The application will be processed and examined using only the application papers filed on 15 May, 2002. The one (1) sheet of drawings filed on 19 August, 2002, will not be used for processing or examination, but will be retained in the application file.

The "Notice of Incomplete Nonprovisional Application" mailed on 18 June, 2002, was sent in error and is hereby vacated to the extent that it stated that the application was incomplete because the application was deposited without drawings.

The application is being forwarded to the Office of Initial Patent Examination for reprocessing with a filing date of 15 May, 2002, using the application papers filed on that date, and for an indication on the bib-data sheet that no (0) sheets of drawings were present on filing.

Telephone inquiries specific to this matter should be directed to 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

[2] MPEP 601.01(f).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WINSTON & STRAWN, LLP
PATENT DEPARTMENT
1700 K STREET, N.W.
WASHINGTON, DC 20006

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FEB 11 2009

OFFICE OF PETITIONS

In re Application of :
Dilip Shantilal Shanghvi, et. al. :
Application No. 10/146,670 : ON PETITION
Filed: May 15, 2002 :
Attorney Docket No. 7451-4000 :

This is a decision on the petition under 37 CFR 1.137(b), filed on December 10, 2008, to revive the above-identified application.

The application became abandoned for failure to timely respond to the non-final Office action mailed on June 11, 2007. A Notice of Abandonment was mailed on February 1, 2008.

The petition is **dismissed**.

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

Petitions under the unintentional provisions of 37 CFR 1.137 are required to be signed by an attorney or agent registered to practice before the Patent and Trademark Office, the patentee, the assignee, or other party in interest.

While the assignee attempted to intervene in the above-identified patent, the statement under 37 CFR 3.73(b) does not comply with the requirements of 37 CFR 3.73(b). Petitioner's statement "through its authorized officer" is unclear whether the signature of

Dipak Mundra, appearing on the petition, is authorized and/or empowered to sign the petition on behalf of the assignee. Therefore, the statement unintentional delay cannot be accepted at this time.

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) is 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 35 U.S.C. § 704.

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

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

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

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

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

Telephone inquiries concerning this decision should be directed to 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

WINSTON & STRAWN, LLP
PATENT DEPARTMENT
1700 K STREET, N.W.
WASHINGTON, DC 20006

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MAR 25 2009

OFFICE OF PETITIONS

In re Application of
Dilip Shantilal Shanghvi, et. al.
Application No. 10/146,670
Filed: May 15, 2002
Attorney Docket No. 7451-4000

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed February 27, 2009, to revive the above-identified application.

Since the renewed petition satisfies the requirements of 37 CFR 1.137(b), in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 1611 for review of the amendment filed on December 10, 2008.

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

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

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JAN 2 0 2006

OFFICE OF PETITIONS

In re Patent of :
Knott et al. :
Patent No. 6,854,506 :
Issue Date: February 15, 2005 : Decision on Petition
Application No. 10/146,701 :
Filing Date: May 14, 2002 :
Attorney Docket No. 512425-2068 :

This is a decision on the petition under 37 CFR 1.183, filed August 15, 2005, to waive the rules and accept the correction of the assignee data on the front page of the above-identified patent. The petition is also being treated as a request under 37 CFR 3.81 to accept the correction of the assignee data.

The petition under 37 CFR 1.183 is **dismissed as moot.**

The request under 37 CFR 3.81 is **granted**.

Effective June 25, 2004, 37 CFR 3.81(b) has been revised to no longer require the correction of the assignee data prior to issuance of the patent. Therefore, a petition to waive the rule is unnecessary. 37 CFR 3.81(b) currently states:

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

In other words, the request under 37 CFR 3.81(b) will be granted when:

(1) a request under 37 CFR 3.81 and the fee set forth in 37 CFR 1.17(i) are filed,
(2) the assignment was submitted for recordation prior to issuance of the patent, and
(3) a request for a certificate of correction and the fee set forth in 37 CFR 1.20(a) are submitted.

Petitioner has met the requirements set forth above. Therefore, the request is granted.

The file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6787691	2004-09-07	10146707	2002-05-14	06618-0346004/CIT 2860

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	/Bing Ai/	Date (YYYY-MM-DD)	2008-11-12
Name	Bing Ai	Registration Number	43312

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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P.O. Box 1450
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In re Patent No. 6787691
Issue Date: September 7,2004
Application No. 10146707
Filed: May 14,2002
Attorney Docket No. 06618/346004 / CIT 2860

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

This is a decision on the electronic petition, filed November 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 November 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 the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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Alexandria, VA 22313-1450
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MAR 13 2006

PANPAN GAO
HELLER EHRMAN LLP
275 MIDDLEFIELD ROAD
MENLO PARK, CA 94025

In re Application of	:	
Kevin P. Baker et al	:	
Serial No.: 10/146,729	:	DECISION ON PETITION
Filed: 15 May 2002	:	
Attorney Docket No.: 39780-3330	:	

This letter is in response to the Petition under 37 C.F.R. 1.181, filed 13 January 2006 requesting (1) that the rejections containing the six new references which have been used by the examiner in the Examiner's Answer be designated as new grounds of rejection; (2) that the examiner provide a corrected Examiner's Answer which identifies the rejections as new grounds of rejection; and (3) that prosecution be reopened because of these new grounds of rejection.

BACKGROUND

On 12 January 2005 the examiner mailed to applicants a FINAL Office action. Applicants filed a Notice of Appeal on 10 June 2005 and an Appeal Brief on 10 August 2005. The examiner mailed to applicants an Examiner's Answer on 15 November 2005. Applicants filed a Reply Brief on 13 January 2006 along with a request for an Oral Hearing.

DISCUSSION

In the Examiner's Answer the examiner relied extensively on six new references in order to support the lack of utility and lack of enablement rejections. These new references are:

Saito-Hisaminato *et al.* 2002, DNA Res. 9 :35 - 45.
Bustin, 2002, TRENDS in Molec. Med. 8(6): 269 - 272.
Anderson *et al.*, 1997, Electrophoresis, 18 : 533 - 537.
Kawamoto *et al.*, 1996, Mol. Cell. Biol. 174: 151 - 158.
Lian *et al.*, 2001, Blood 98: 513 - 524.
Fessler *et al.*, 2002, J. Biol. Chem. 277 : 31291 - 31302.

The statutory basis of the rejections (35 U.S.C. 101 and 112, first paragraph) in the Examiner's Answer did not change from the FINAL office action mailed to applicant on 12 January 2005. However, it is clear that the examiner used the additional six new references to reinforce these rejections and rebut more thoroughly applicants' arguments. While applicants have responded to these new arguments and new references raised by the examiner in the Examiner's Answer in their Reply Brief, they argue that they have been placed at a disadvantage because they have not been precluded from presenting substantive evidence of their own for the record in order to rebut the newly applied references.

DECISION

For the above reasons, the petition under 37 C.F.R. 1.181 requesting (1) that the rejections containing the six new references which have been used in the Examiner's Answer be designated as new grounds of rejection; (2) that the Examiner provide a corrected Examiner's Answer which identifies the rejections as new grounds of rejections; and (3) that the FINALITY be withdrawn and that prosecution be reopened because of these new grounds of rejection are **GRANTED-IN-PART.**

Applicants' first request that the rejections in the Examiner's Answer be designated "new grounds of rejection" is **GRANTED**.

Applicants' second request has been effectively granted by this Decision on Petition designating the rejections in the Examiner's Answer to be "new grounds of rejection." The further request for the corrected Examiner's Answer is deemed to be moot in view of this Decision on Petition and therefore, **DENIED**.

Applicants' third request to have the FINALITY of the application withdrawn and prosecution reopened is **GRANTED**.

Applicants are given one month (non-extendable) time period from the date of mailing of this Decision on Petition within which to submit any additional exhibits or affidavits necessary in order to rebut the examiner's new grounds of rejection presented in the Examiner's Answer.

This application is being returned to the examiner for reopening of prosecution and consideration of arguments presented in the Reply Brief and any additional evidence which may be provided by applicants within time period set above. The Reply Brief along with any subsequent evidence timely submitted will be considered a complete response to the new grounds of rejection set forth in the Examiner's Answer which will be treated effectively as a non-final rejection.

Applicants have been charged a fee of $130.00 for this petition. However, since there is no fee for this petition, 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.

George C. Elliott
Director, Technology Center 1600

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FRISHAUF HOLTZ GOODMAN & CHICK PC
220 FIFTH AVENUE
16TH FLOOR
NEW YORK NY 10001-7708

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FEB 0 6 2008

OFFICE OF PETITIONS

In re	:	
Tomihisa Yokoyama	:	DECISION REGARDING
Application No. 10/146,747	:	PATENT TERM ADJUSTMENT
Filed: May 16, 2002	:	
Patent No. 7,307,096	:	
Issued: December 11, 2007	:	
Attorney Docket No. 02258CIP/HG	:	

This letter is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN AN ISSUED PATENT (37 CFR §1.705 (d))", filed January 2, 2008. Patentee requests that the determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from seven hundred thirty-two (732) days to seven hundred fifty-two (752) days.

The application for patent term adjustment is **DISMISSED**.

On December 11, 2007, the application issued into Patent No. 7,307,096 with a patent term adjustment of seven hundred thirty-two (732) days. Patentee timely submitted the instant application for patent term adjustment, asserting that the correct number of days of PTA is seven hundred fifty-two (752) days. According to Patentee, the Office erroneously accorded twenty (20) days of applicant delay for the submission of an IDS on August 31, 2007, after the Office mailed a Notice of Allowance on July 24, 2007. Patentee states that the IDS contained a 37 CFR 1.704(d) statement, and therefore no applicant delay should have been accorded.

Patentee states that the patent issuing is not subject to a terminal disclaimer.

A review of the application file indicates that the August 31, 2007 IDS did not contain a proper 37 C.F.R. § 1.704(d) statement. The IDS contained a statement that "each item of information contained in this Information Disclosure Statement (i.e., IDS Form) was first cited in **said** communication [referring to a Canadian Office action] from a foreign patent office in a counterpart application"... and that "this communication was not received by any individual designated in 37 C.F.R. §1.56(c) more than thirty days prior to the filing of the present Information Disclosure Statement." § 1.704(d) states that an IDS will not be considered a failure to engage under (c)(8) if it is accompanied by a statement that "each item of information contained in the information disclosure statement was first cited in **any** communication from a foreign patent office in a counterpart application and that this communication was not received" more than thirty days prior to the filing of the IDS.

Applicants should have mirrored the language of "first cited in any communication" as required by § 1.704(d). Accordingly, applicant delay of twenty (20) days was properly assessed pursuant to 37 C.F.R. § 1.704(c)(8).

In view thereof, the correct determination of patent term adjustment is **seven hundred thirty-two (732) days.**

If Patentee wants to make the proper assertion, then Patentee may file a Request for Reconsideration of this patent term adjustment decision, with a statement mirroring the language of § 1.704(d). Patentees are given **two (2) months** to respond to this decision. No extensions of time will be granted under 37 C.F.R. § 1.136(a).

Receipt of the $200 fee under 37 C.F.R. § 1.18(e) is acknowledged.

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

Nancy Johnson
Senior Attorney
Office of Petitions

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16TH FLOOR
NEW YORK NY 10001-7708

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APR 25 2008

OFFICE OF PETITIONS

In re	:	
Tomihisa Yokoyama	:	DECISION REGARDING
Application No. 10/146,747	:	PATENT TERM ADJUSTMENT
Filed: May 16, 2002	:	
Patent No. 7,307,096	:	
Issued: December 11, 2007	:	
Attorney Docket No. 02258CIP/HG	:	

This letter is in response to the REQUEST FOR RECONSIDERATION OF DECISION ON APPLICATION FOR PATENT TERM ADJUSTMENT", filed February 14, 2008. Patentee requests that the determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from seven hundred thirty-two (732) days to seven hundred fifty-two (752) days.

The application for patent term adjustment is **GRANTED**.

On December 11, 2007, the application issued into Patent No. 7,307,096 with a patent term adjustment of seven hundred thirty-two (732) days. Patentee timely submitted an application for patent term adjustment on January 2, 2008, asserting that the correct number of days of PTA is seven hundred fifty-two (752) days. According to Patentee, the Office erroneously accorded twenty (20) days of applicant delay for the submission of an IDS on August 31, 2007, after the Office mailed a Notice of Allowance on July 24, 2007. Patentee stated that the IDS contained a 37 CFR 1.704(d) statement, and therefore no applicant delay should have been accorded.

However, the application for patent term adjustment was dismissed in a decision mailed on February 6, 2008. The decision noted

that the August 31, 2007 IDS did not contain a proper 37 C.F.R. § 1.704(d) statement. The IDS contained a statement that "each item of information contained in this Information Disclosure Statement (i.e., IDS Form) was first cited in **said** communication [referring to a Canadian Office action] from a foreign patent office in a counterpart application"... and that "this communication was not received by any individual designated in 37 C.F.R. §1.56(c) more than thirty days prior to the filing of the present Information Disclosure Statement." The decision pointed out that § 1.704(d) states that an IDS will not be considered a failure to engage under (c)(8) if it is accompanied by a statement that "each item of information contained in the information disclosure statement was first cited in **any** communication from a foreign patent office in a counterpart application and that this communication was not received" more than thirty days prior to the filing of the IDS.

The decision gave applicants two months to respond to the decision, making the proper word-for-word assertion required by § 1.704(d).

With the instant request for reconsideration, patentees have certified under 37 C.F.R. §1.704(d) that "each item of information contained in this Information Disclosure Statement (i.e., IDS form) was first cited in any communication from a foreign patent office in a counterpart application ,and this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the Information Disclosure Statement".

Accordingly, the petition is granted.

In view thereof, the correct determination of PTA at the time of issuance is seven hundred fifty-two (752) days (939 days of PTO delay and 187 days of applicant delay).

The 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 Cliff Congo, Petitions Attorney, at (571)272-3207.

Nancy Johnson
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,307,096 B2

DATED : December 11, 2007

INVENTOR(S) : Tomihisa Yokoyama

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 (732) days

Delete the phrase "by 732 days" and insert – by 752 days—

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Paper No. 9

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APR 0 9 2003

OFFICE OF PETITIONS

Mr. Albert Louis Winkler
505 Weekeepee Road
Woodbury, CT 06798

In re Application of
Joseph D. Laudano, Prasad S. Sastry, Albert L. Winkler and Michael C. Manning
Application No. 10/146,771
Filed: May 16, 2002
For: Tanning Lamp having Grooved Periphery

Dear Mr. Winkler:

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 per37 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) 308-6911. 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).

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

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

cc: Cummings & Lockwood
Granite Square
700 State Street
PO Box 1960
New Haven, CT 06509-1960

Cc: Cummings & Lockwood
Four Stamford Plaza
PO Box 120
Stamford, CT 06904

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

Paper No. 9

Mr. Michael Manning
2 Milesfield Avenue
Milford, CT 06460

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APR 0 9 2003

OFFICE OF PETITIONS

In re Application of
Joseph D. Laudano, Prasad S. Sastry, Albert L. Winkler and Michael G. Manning
Application No. 10/146,771
Filed: May 16, 2002
For: Tanning Lamp having Grooved Periphery

Dear Mr. Manning:

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) 308-6911. 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).

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

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

cc: Cummings & Lockwood
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PO Box 1960
New Haven, CT 06509-1960

Cc: Cummings & Lockwood
Four Stamford Plaza
PO Box 120
Stamford, CT 06904

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Washington, D.C. 20231
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Paper No. 8

Cummings & Lockwood
Granite Square
700 State Street
PO Box 1960
New Haven, CT 06509-1960

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APR 0 9 2003

OFFICE OF PETITIONS

In re Application of
Joseph D. Laudano et al.
Application No. 10/146,771
Filed: May 16, 2002
Attorney Docket No. 894165.0036 (VTT-176)

ON PETITION

This is in response to the "Petition under 37 CFR 1.47(a)", filed October 23, 2002 (certificate of mailing October 18, 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 37 CFR 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The 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.

After the mailing of this decision, the file will be forwarded to the Office of Initial Patent Examination for further processing.

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

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

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

cc: Cummings & Lockwood
Four Stamford Plaza
PO Box 120
Stamford, CT 06904

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MARK FARBER
UNITED STATES SURGICAL, A DIVISION
OF TYCO HEALTHCARE GROUP LLP
150 GLOVER AVENUE
NORWALK CT 06856

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SEP 2 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Eric C. Miller	:	
Application No. 10/146,774	:	ON PETITION
Filed: May 16, 2002	:	
Attorney Docket No. 1939 CON	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 14, 2005 requesting withdrawal of the above-identified application from issue.

The petition is **dismissed** as moot for the reasons stated below.

A review of the file record discloses that a Notice of Allowance was mailed on June 21, 2005, with the issue fee being due on or before September 21, 2005.

37 CFR 1.313(c)(2) provides for withdrawal of an application from issue after payment of the issue fee. In the instant case, the issue fee in reply to the Notice of Allowance of June 21, 2005, has not been received. Therefore, the filing of a petition to withdraw this application from issue is unnecessary at this time. The mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue.

The $130 fee submitted for the petition under 37 CFR 1.313(c)(2) will be refunded to petitioner's deposit account.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 3714 for appropriate processing of the RCE filed September 14, 2005, and consideration of the IDS submitted concurrently therewith.

Karen Creasy

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

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SPENCER, FANE, BRITT & BROWNE LLP
1000 Walnut Street, Suite 1400
Kansas City, MO 64106-2140

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OFFICE OF PETITIONS

In re Application of :
Ognjen Vasic et al. :
Application No. 10/146,782 : DECISION ON PETITION
Filed: May 15, 2002 :
Attorney Docket No. 5009909-21 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed 18 December 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed 01 May 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 02 August 2007.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application no. 11/931,116 filed 31 October 2007.

Telephone inquiries concerning this decision should be directed to Allen C. Ho at (571) 272-6052.

David Bucci
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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Paper No. 7

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

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MAY 2 4 2005

OFFICE OF PETITIONS

In re Application of :
Romaine Maiefski, et. al. :
Application No. 10/146,784 : ON PETITION
Filed: May 15, 2002 :
Attorney Docket No. 319108006US :

This is a decision on the petition under 37 CFR 1.137(b), filed December 29, 2004, to revive the above-identified application.

In response to the non-final Office action mailed July 29, 2003, petitioner submitted $750 for the petition to revive fee and an amendment.

Since petitioner has met the requirements to revive the above-identified application, pursuant to 37 CFR 1.137(b), the petition is **GRANTED**.

The application file is being forwarded to Technology Center Art Unit 3746, for review of the amendment filed with the instant petition.

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

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

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Paper No. 6

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

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SEP 24 2002

OFFICE OF PETITIONS

In re Application of
Foldes, et al.
Application No. 10/146,806
Filed: May 17, 2002
Attorney Docket No. 016777-0474

ON PETITION

This is a decision on the petition filed August 19, 2002 to accord the application a filing date of May 17, 2002 with Figure 10 as part of the original disclosure. The petition will be treated as a petition under 37 CFR 1.181 to correct the file of the above-identified application.

The application was filed on May 17, 2002. However, on June 21, 2002, the Office of Initial Patent Examination mailed a Notice stating that the drawing of Figure 10 described in the specification appeared to have been omitted.

In response, the present petition was filed. Petitioners argue that the application papers filed on May 17, 2002, included 41 sheets of drawings, including the allegedly missing Figure 10.

A review of the application file reveals that 41 sheets of drawings are present, including Figure 10. Accordingly, it is apparent that Figure 10 was not omitted on May 17, 2002.

The petition is granted.

Pursuant to petitioners' authorization, deposit account No. 19-0741 will be credited the $130.00 petition fee paid on August 19, 2002.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of May 17, 2002 and for correction of Office record to indicate that forty one (41) sheets of drawings were filed on that date.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6712.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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PITTS AND BRITTIAN P C
P O BOX 51295
KNOXVILLE, TN 37950-1295

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APR 21 2004

OFFICE OF PETITIONS

In re Application of :
Jeffrey V. Peck et al :
Application No. 10/146,842 : NOTICE
Filed: May 15, 2002 :
Attorney Docket No. 28061.00 :

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 application file is being referred to Publishing Division.

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

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HITT GAINES P.C.
P.O. BOX 832570
RICHARDSON TX 75083

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MAY 0 3 2007

OFFICE OF PETITIONS

In re Application of :

MCKAY, John t. :
Application No. 10/146,852 : DECISION ON PETITION
Filed: May 17,2002 : TO WITHDRAW
Attorney Docket No. **PHNS-0002** : 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, 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, the practitioner's inability to work with co-counsel, does not meet any of the conditions set forth in 37 CFR 10.40.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **KRISTEN ERLER**
PHNS INC.
ONA LINCOLN CENTRE
5400 LBJ FREEWAY, SUITE 200
DALLAS, TX 75240

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JAN 22 2008

OFFICE OF PETITIONS

HITT GAINES P.C.
P.O. BOX 832570
RICHARDSON TX 75083

In re Application of :

MCKAY, John T. :
Application No. 10/146,852 : DECISION ON PETITION
Filed: May 17, 2002 : TO WITHDRAW
Attorney Docket No. **PHNS-0002** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 14, 2007.

The request is **NOT APPROVED.**

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 practitioner's inability to work with co-counsel, does not meet any of the conditions set forth in 37 CFR 10.40.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **KRISTEN ERLER**
PHNS INC.
ONA LINCOLN CENTRE
5400 LBJ FREEWAY, SUITE 200
DALLAS, TX 75240

#9

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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DEC 27 2002

Office of the Director
Group 3600

Paper No. 9

Shaw Pittman LLP
1650 Tysons Boulevard
McLean, VA 22102

In re application of : **DECISION ON PETITION**
David Shilliday et al. : **TO MAKE SPECIAL**
Application No. 10/146,933 : **(ACCELERATED EXAMINATION)**
Filed: May 17, 2002
For: DISTRIBUTED CHARGE INFLATOR SYSTEM

This is in response to the petition filed on July 24, 2002 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 delay in treating this petition is sincerely regretted.

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.

CLASS 280

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**.

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

snm: 12/26/02

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TROPIC NETWORKS INC.
DR. VICTORIA DONNELLY
135 MICHAEL COWPLAND DRIVE
KANATA ON K2M 2E9 CA CANADA

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JUN 1 0 2003

OFFICE OF PETITIONS

Applicant: Gholamhosseini et al.
Appl. No.: 10/146,957
Filing Date: May 17, 2002
Title: METHOD AND APPARATUS FOR NETWORK LINK PLANNING
Attorney Docket No.: TR-047
Pub. No.: US 2003/0011846 A1
Pub. Date: January 16, 2003

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was received on March 14, 2003.

The request is DISMISSED.

The instant request is that the application be republished because the assignee information is missing from the front page of the publication.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1] The instant request does not identify a material mistake in the publication made by the Office:

The instant request does not identify a material mistake in the publication made by the Office. The assignment information was not printed on the patent application publication, because it was not provided on the transmittal letter or on an application data sheet.[2] The Office prints the assignee information as reflected on the transmittal letter or application data sheet, if provided by applicant and does not look at the assignment records for the assignment information.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(b), should be submitted via the EFS system and questions should be addressed as follows:

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[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

[2] See Comment 59, Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57047 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 84 (Oct. 10, 2000) (final rule).

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

By facsimile: 703-305-8568

The application is being forwarded to Technology Center 2633 to await further examination in due course.

Inquires concerning this communication should be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Jordan and Hamburg LLP
122 East 42nd Street
Suite 4000
New York, NY 10168

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DEC 30 2005

OFFICE OF PETITIONS

In re Application of :
Nakata et al. :
Application No. 10/146,975 : DECISION ON PETITION
Filed: May 15, 2002 :
Attorney Docket No. F-7403 :

This is a decision on the petition under 37 CFR 1.181, filed June 16, 2005, to withdraw the holding of abandonment for the above-identified application. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for any inconvenience to petitioners.

On June 22, 2004, the Office mailed petitioners an Ex Parte Quayle Action, which set a two-month shortened statutory period for reply. Petitioners state that on June 16, 2005, the examiner called petitioners' attorney and stated that the USPTO did not receive a response to the Office Action of June 22, 2004. Petitioners indicated that the examiner requested that they submit to the Office a petition, the response, and proof that the response was filed timely. On June 16, 2005, petitioners filed the present petition, copy of the response, and a copy of the returned, date-stamped postcard receipt, demonstrating receipt of the response in the USPTO on August 11, 2004.

Initially, the Office notes that there is no indication in the record that the Office held the application abandoned for failure to reply timely to the Ex Parte Quayle Action. Moreover, after a review of the record, the Office has located the original response to the Ex Parte Quayle Action, filed on August 11, 2004. For these reasons, the petition is **granted**. The application will remain in a pending status in view of the fact that the response was timely filed and received on August 11, 2004.

As petitioners paid the issue fee on October 17, 2005, this matter is being referred to the Office of Patent Publication.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211. Telephone inquiries concerning the issuance of the application into a patent should be directed to the Office of Patent Publication, Customer Service at (888) 786-0101.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

Mail Date: 04/21/2010

Applicant	: Christopher R. Larson	: DECISION ON REQUEST FOR
Patent Number	: 7585309	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/146,982	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/16/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1651** 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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PERKINS COIE, LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

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FEB 07 2005

OFFICE OF PETITIONS

In re Application of	:	
Mark Eakins, et. al.	:	
Application No. 10/146,985	:	ON PETITION
Filed: May 15, 2002	:	
Attorney Docket No. 030048064 US	:	

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

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113, to the final Office action mailed May 4, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight August 4, 2004.

In response to the final Office action, petitioner submitted with the instant petition $1,370 for the petition to revive fee, $790 for the filing of a Request for Continued Examination (RCE) under 37 CFR 1.114.

The petition is **GRANTED**.

The application file is being forwarded to Technology Center Art Unit 3644, for processing the Request for Continued Examination under 37 CFR 1.114, and for consideration of the previously filed amendment on August 3, 2004.

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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PERKINS COIE LLP (BOEING)
P.O. BOX 1247
PATENT - SEA
SEATTLE, WA 98111-1247

Mail Date: 04/20/2010

Applicant	: Mark E. Eakins	: DECISION ON REQUEST FOR
Patent Number	: 7644888	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/146,985	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/15/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1171** 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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HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE, SUITE 550
SAN JOSE, CA 95110

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JUL 21 2008

OFFICE OF PETITIONS

In re Application of :
CLEMM, et al. :
Application No. 10/147,014 : DECISION GRANTING PETITION
Filed: May 15, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **50325-0653** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 11, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on June 24, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2616 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Monica A. Graves
Petitions Examiner
Office of Petitions

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

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Paper No. 10

LINDA M. SHECTERLE
940 FERNBROOK LANE NORTH
PLYMOUTH MN 55447

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OCT 27 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of
John G. Seifert et al.
Application No. 10/147,100
Filed: May 15, 2002
Attorney Docket No. BP.027US1

This is a decision on the petition under 37 CFR 1.137(b), filed October 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 the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)".This is **not** a final agency decision.

This application became abandoned for failure to timely respond to the non-Final office action mailed July 1, 2003. Accordingly, a Notice of Abandonment was mailed January 22, 2004.

Petitioner files the instant petition under 37 CFR 1.137(b). [1] Pursuant to 37 CFR 1.137(b) however, the instant petition lacks item (2) of the regulation. Effective October 1, 2004, the

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

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

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

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

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

petition fee was set at $685.00 for a small entity and not $665.00 as indicated in the petition. Therefore and since no authorizations for debiting a deposit account for any deficiencies have been granted, the petition fee has not been paid.

Additionally, the petition is not signed.

In view of the above, the application will remain in an abandoned status until such time as an additional $20.00 has been paid for the petition fee and until such time as a signed petition is submitted.

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

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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P.O. Box 1450
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LINDA M. SHECTERLE
940 FERNBROOK LANE NORTH
PLYMOUTH MN 55447

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SEP 23 2005

OFFICE OF PETITIONS

In re Application of
John G. Seifert et al.
Application No. 10/147,100
Filed: May 15, 2002
Attorney Docket No. BP.027US1

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed September 13, 2005, to revive the above identified application.

The petition is **DISMISSED**.

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

This application became abandoned for failure to timely respond to the non-Final office action mailed July 1, 2003. Accordingly, a Notice of Abandonment was mailed January 22, 2004. A petition filed October 12, 2004 was dismissed in a decision mailed October 27, 2004 because the petition fee was deficient. Effective October 1, 2004, the petition fee was set at $685.00 for a small entity and not $665.00 as was submitted with the petition. The petition was also dismissed because the petition had not been signed.

Comes now petitioner with the instant renewed petition and with a payment of $20.00 as was required and a signed petition. However, the petition is still not grantable. Since the time of the dismissal, mailed October 27, 2004, another fee increase has been implemented. Effective December 8, 2004, the fee for a petition to revive under 37 CFR 1.137(b) was set at $750.00. Petitioner now has a total of $685.00 on account but, the application will remain in an abandoned status until such time as the additional petition fees have been submitted.

We would recommend that petitioner pay close attention to the statutory fees set and not delay in paying the fees due next time as another increase could easily occur.

Also, a requirement under 37 CFR 1.137(b) is that the entire delay is unintentional.

Petitioner should note, the three periods to be considered during the evaluation of a petition under 37 C.F.R. §1.137(a) or (b) are the delay in:

(1) reply that originally resulted in abandonment and from the abandonment until discovery thereof;

(2) filing an initial petition pursuant to §1.137(b) to revive the application; and

(3) filing a *grantable* petition pursuant to §1.137(b) to revive the application.[1]

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

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

By FAX: (571) 273-8300

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

[1] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131 at 53158 (10 October, 1997).

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P.O. Box 1450
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KATHLEEN R. TERRY
13840 JOHNSON ST. NE
HAM LAKE, MN 55403

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FEB 0 8 2006

OFFICE OF PETITIONS

In re Application of
John G. Seifert et al.
Application No. 10/147,100
Filed: May 15, 2002
Attorney Docket No. BP.027US1

ON PETITION

This is a decision on the second renewed petition under 37 CFR 1.137(b), filed January 26, 2006, to revive the above identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely respond to the non-Final office action mailed July 1, 2003. Accordingly, a Notice of Abandonment was mailed January 22, 2004. A petition filed October 12, 2004 was dismissed in a decision mailed October 27, 2004 because the petition fee was deficient. Effective October 1, 2004, the petition fee was set at $685.00 for a small entity and not $665.00 as was submitted with the petition. The petition was also dismissed because the petition had not been signed. A renewed petition was filed September 13, 2005 and dismissed in a decision mailed September 20, 2005 because since the time of the dismissal, mailed October 27, 2004, another fee increase had been implemented and effective December 8, 2004, the fee for a petition to revive under 37 CFR 1.137(b) was set at $750.00. Since petitioner had a total of $685.00 on account and additional $65.00 was due.

Comes now petitioner with the instant renewed petition and the funds required to act on the petition to revive. All requirements under 37 CFR 1.137(b) having now been met, this matter is being referred to Technology Center 1616 for appropriate action on the amendment filed October 12, 2004.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Paper No. 8

KALOW & SPRINGUT LLP
488 MADISION AVENUE
19TH FLOOR
NEW YORK, NY 10022

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JUN 0 8 2004

OFFICE OF PETITIONS

In re Application of	:	
Kohler et al.	:	
Application No. 10/147,102	:	ON PETITION
Filed: May 15, 2002	:	
Attorney Docket No. 13338US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 12, 2004, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed 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 1700 for further examination on the merits.

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

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

PTO/SB/66 (03-09)
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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)
6888324	2005-05-03	10147110	2002-05-16	2061

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Larry K. Roberts/	Date (YYYY-MM-DD)	2009-06-06
Name	Larry K. Roberts	Registration Number	28464

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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

In re Patent No. 6888324
Issue Date: May 3,2005
Application No. 10147110
Filed: May 16,2002
Attorney Docket No. 83464.0017

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

This is a decision on the electronic petition, filed June 6,2009 ,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 6,2009 . 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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Paper No. 7

Daniel DeJoseph
F.L. Smidth Inc.
2040 Avenue C
Bethlehem PA 18017-2188

COPY MAILED

SEP 30 2004

OFFICE OF PETITIONS

In re Application of
Benny E. Raahauge
Application No. 10/147,114
Filed: May 16, 2002
Attorney Docket No. FFEM-5

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 16, 2004, to revive the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to submit the missing oath or declaration in a timely manner in reply to the Notice To File Missing Parts of NonProvisional Application mailed June 20, 2002, which set a shortened statutory period for reply of two(2) months. Accordingly, the application became abandoned on August 21, 2002.

Telephone inquiries concerning this decision should be directed to the undersigned at (703)308-5111.

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

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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NOV 20 2003

OFFICE OF DIRECTOR
GROUP

Paper No. 112003

GEORGE A LEONE, SR
2150 128th Avenue, NW
Minneapolis, MN 55448

In re Application of:
Alan C. Nelson
Serial No.: 10/147,154
Filed: May 13, 2002
Attorney Docket No.: **60059US**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102, filed September 15, 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 Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02, Item X: Inventions relating to HIV/AIDS and cancer.

A grantable petition to make an application special under 37 C.F.R. § 1.102, and in accordance with M.P.E.P. § 708.02, Section X, for an invention which relate to HIV/AIDS and cancer, must be accompanied by a statement explaining how the invention contributes to the diagnosis, treatment or prevention of HIV/AIDS or cancer.

The appropriate fee, and a statement by Alan C. Nelson, PhD., explaining how the invention contributes to the diagnosis of HIV/Aids and cancer, accompanied the petition. This statement explains that the invention contributes to the early diagnosis, treatment or prevention of cancer by providing an emission computed optical tomography imaging system using temporal signatures that analyzes an object, such as a biological cell labeled with a tagged molecular probe, where the measured location of the probe may yield important information about the disease state of the cell, including, but not limited to, various cancers such as lung, colon, prostate, breast, cervical and ovarian cancers.

For the above stated reasons, the petition is GRANTED.

The application is being forwarded to the examiner for expedited prosecution.

If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the

application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that she is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

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

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

UNITED STATES
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TRADEMARK OFFICE

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

AUG 18 2003

JOSHUA L. CHERRY
2307 MASSACHUSETTS AVE
CAMBRIDGE MA 02140

In re Application of Joshua L. Cherry :
Serial No.: 10/147,185 : DECISION ON PETITION
Filed: May 15, 2002 :

This is in response to applicant's petition, filed March 11, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(d) based on the allegation that the claimed invention is being infringed.

The requirements for making an application special for this reason are set forth in M.P.E.P. 708.02, II:

> Subject to a requirement for a further showing as may be necessitated by the facts of a particular case, an application may be made special because of actual infringement (but not for prospective infringement) upon payment of the fee under 37 CFR 1.17(h) and the filing of a petition accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office alleging:
>
> (A) That there is an infringing device or product actually on the market or method in use;
>
> (B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
>
> (C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.
>
> Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.
>
> Models or specimens of the infringing product or that of the application should not be submitted unless requested.

The statement accompanying applicant's petition does not contain item (C) described above, nor did applicant provide copies of the references cited in the statement as required.

The petition is **DISMISSED** without prejudice.

Any request for reconsideration or review of this decision must be made by a renewed petition and must be filed within TWO MONTHS of the mailing date of this decision in order to be considered timely.

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

Should there be any questions with regard to this letter please contact Bruce Campell by letter addressed to the Director, Technology Center 1600, Washington, DC 20231, or by telephone at (703) 308-4205 or by facsimile transmission at (703) 746-5006.

Bruce Campell

Supervisory Patent Examiner / Special Program Examiner

Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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JONES DAY FOR
ISIS PHARMACEUTICALS, INC.
222 EAST 41ST STREET
NEW YORK, NY 10017-6702

COPY MAILED

MAR 0 5 2008

OFFICE OF PETITIONS

In re Application of :
Rosanne M. Crooke et al :
Application No. 10/147,196 : ON PETITION
Filed: May 15, 2002 :
Attorney Docket No. ISPH-0664

This is a decision on the petition, filed March 4, 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 2, 2008 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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 1635 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Melissa R. Leuenberger-Fisher
Isis Pharmaceuticals, Inc.
1896 Rutherford Road
Carlsbad, CA 92008

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

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Paper No. 5

JOHN STEWART LANG
2209 S ANCHOVY AVE
SAN PEDRO, CA 90732

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OFFICE OF PETITIONS

ON PETITION

In re Application of
John Stewart Lang
Application No. 10/147,210
Filed: May 20, 2002
For: HYDRAULIC JET FLASH MIXER WITH GAS DIFFUSION PORT IN THE FLOW DEFLECTOR

This is a decision on the paper filed December 23, 2003, which is being treated as a petition under 37 CFR 1.137(a), to revive the above-identified application.

The petition is **DISMISSED**.

The merits of the petition under 37 CFR 1.137(a) will not be considered because petitioner has not submitted the petition fee of $55.

As a courtesy, the Office will explain petitioner's current options:

Petitioner may wish to file a petition to withdraw the holding of abandonment under 37 CFR 1.181.

A fee is unnecessary for a petition to withdraw the holding of abandonment.

A petition under 37 CFR 1.181 will be granted if petitioner can demonstrate the Notice was never received.

In the absence of any irregularity in the mailing of the Office action, there is a strong presumption that the Office action was properly mailed and received. In order to overcome this presumption, petitioner should:
(1) explain who opens all incoming mail and the qualifications of the individual,
(2) explain how incoming mail is handled prior to being placed in petitioner's hands,
(3) explain whether or not all mail concerning the instant application is kept in one location,
(4) state that a search of the location where the mail would have been placed has been made and that the Notice could not be found at this location, and
(5) include any additional information which petitioner feels may be relevant.

The petition should be accompanied by a reply to the attached Notice.

Petitioner may wish to file a renewed petition under 37 CFR 1.137(a):

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

This type of petition might be appropriate if petitioner could not prove the Notice was never received, but could prove that if it was lost after receipt, such loss was unavoidable. For example, petitioner might prove that the individual who handles incoming mail had years of experience at handling mail and that reliance on such individual not to loose or misplace mail was reasonable and prudent.

A petition under 37 CFR 1.137(a) must be accompanied by the fee of $55.

The petition should be accompanied by a reply to the attached Notice.

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
Attn: Office of Petitions

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

Attached: Copy of Notice mailed August 29, 2002

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Paper No. 8

JOHN STEWART LANG
2209 S ANCHOVY AVE
SAN PEDRO, CA 90732

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APR 0 5 2004

OFFICE OF PETITIONS

In re Application of :
John Stewart Lang :
Application No. 10/147,210 : ON PETITION
Filed: May 20, 2002 :
For: HYDRAULIC JET FLASH MIXER WITH GAS DIFFUSION PORT IN THE FLOW DEFLECTOR :

This is a decision on the petition under 37 CFR 1.181, filed March 30, 2004, to withdraw the holding of abandonment.

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 August 29, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application was deemed abandoned as of October 30, 2002. A Notice of Abandonment was mailed on December 16, 2003.

Petitioner has established that the Notice of Missing Parts was never received.

The Notice of Abandonment and Notice to File Missing Parts are hereby vacated and the holding of abandonment withdrawn.

For petitioner's benefit, the Office will briefly discuss the content of the Notice to File Missing Parts. The Notice to File Missing Parts required the submission of three things:
(1) $92,
(2) corrected application papers because the claims originally submitted do not begin on a new page, and
(3) a properly signed oath or declaration.

As to (1), petitioner has submitted the $92.

As to (2), the Office of Initial Patent Examination will determine if the papers submitted with the petition satisfy the need for corrected application papers. It is noted that although new pages of claims have been filed, a new page 3 of the specification not containing claims has not been filed.

As to (3), a proper oath or declaration has not been submitted. A form which may be used for this purpose is attached.

The file is being forwarded to the Office of Initial Patent Examination to determine the extent to which petitioner has satisfied the prior Notice to File Missing Parts and to mail a new Notice to File Missing Parts setting a new time period for reply from the mailing date thereof.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

Fish & Neave
1251 Avenue of the Americas
New York, NY 10020-1105

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APR 1 4 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of
Asif Khalfan et al.
Application No. 10/147,218
Filed: May 14, 2002
Attorney Docket No. CF/048

This is in response to the petition under 37 CFR 1.47(a), filed January 27, 2003 and Request for Corrected Filing Receipt filed February 26, 2003.

The petition is granted.

Petitioner has shown that the legal representatives of the deceased 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 37 CFR 1.47(c), this Office will forward notice of this application's filing to the legal representatives of the non-signing inventors at the addresses given in the declaration. Notice of the filing of this application will also be published in the Official Gazette.

After the mailing of this decision, the file will be forwarded to the Office of Initial Patent Examination for further processing.

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

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

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

Attachment: Corrected Filing Receipt

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ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8704

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MAR 3 1 2008

In re Application of :

KHALFAN, Asif et al. :
Application No. 10/147,218 : DECISION ON PETITION
Filed: May 14, 2002 : TO WITHDRAW
Attorney Docket No. **01-1048** : 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 **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 Laurence Rogers on behalf of all attorneys of record who are associated with customer No. 64558. All attorneys/agents associated with the Customer Number 64558 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed December 10, 2007 that requires a reply from the applicant.

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

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **ASIF KHALFAN**
22 RUTH PLACE
PLAINVIEW, NY 11803

cc: **DEAN P. ALDERUCCI**
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK, NY 10022

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EXXONMOBIL CHEMICAL COMPANY
P O BOX 2149
BAYTOWN TX 77522-2149

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JAN 2 1 2004

OFFICE OF PETITIONS

In re Application of
James Austin Kendrick
Filed: December 18, 2001
Application No. 10/147,219
Attorney Docket No.: P23716.A04

: DECISION GRANTING
: PETITION

This is a decision on the request for resealing, filed May 12, 2003, and the petition to expunge filed July 18, 2003.

The petition to expunge is granted.

On May 16, 2002, applicant filed a five page Information Disclosure Statement (IDS). Subsequently, on June 17, 2002, applicant filed a supplemental IDS with a four page listing of references. One of the references submitted was a proprietary document, a declaration signed by Scott T. Roger. This proprietary document was cited on the IDS.

On July 18, 2003, petitioner filed a new IDS. Petitioner also filed a supplemental IDS and one page listing that cites only the proprietary document, and includes the Roger declaration in a sealed, labeled envelope in accordance with MPEP § 724.02.

Petitioner requests that the IDS filed June 17, 2002, along with the IDS and the proprietary document be expunged from the record and returned to Applicant, explaining that these were intended to be submitted in compliance with the MPEP. Petitioner further requests that all other references which accompanied the submission filed June 17, 2002, remain in the file. The request to "reseal" is dismissed as moot, because the originally filed application papers reflect that the Roger declaration is sealed and has been maintained in confidence in accordance with MPEP § 724.02. The petition to expunge is granted because the application was expressly abandoned by applicant on May 28, 2003.

The listing submitted June 17, 2002 will remain in the file to preserve the prosecution history. Both Information Disclosure Statements filed July 18, 2003, have been made of record in the file.

After mailing of this decision, the application will be forwarded to Technology Center 1700 for mailing of a notice of abandonment in due course. The petition fee set forth in 37 CFR § 1.17(i) will be charged to petitioner's deposit account 19-0089.

Telephone inquiries concerning this communication should be directed to Terry J. Dey at (703) 308-1201.

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

Enclosures

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JUN 16 2005

OFFICE OF PETITIONS

In re Application of	:	
Gregorio Spadia	:	
Application No. 10/147,229	:	ON PETITION
Filed: May 15, 2002	:	
Attorney Docket No. VST-002	:	

This is a decision on the "PETITION TO REVIVE UNAVOIDABLY ABANDONED APPLICATION" under 37 CFR 1.137(a), filed April 11, 2005.

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)."

The above-identified application became abandoned for failure to timely file a reply to the non-final Office action mailed August 17, 2004. This Office action set a shortened statutory period for reply of three (3) months. No extensions of time under 37 CFR 1.136(a) were obtained. No reply having been received, the above-identified application became abandoned on November 18, 2004. A Notice of Abandonment was mailed on March 7, 2005.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee required by 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) as required pursuant to 37 CFR 1.137(d).

The instant petition lacks items (1) and (3).

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

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

Moreover, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable."[2]

Here, petitioner has not met his burden of establishing that the delay was unavoidable. Specifically, an application is "unavoidably" abandoned only where 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.[3]

The showing of record is that the October 18, 2004, the Patent Committee Chairman for assignee Virtual Silicon Technologies, Mr. John Callahan, sent attorney William Wilbar an e-mail communication directing the law firm not to spend any more money on this patent application.[4] Shortly thereafter, between October 18, 2004 and November 12, 2004, Mr. Dan Hillman became the Patent Committee Chairman and inquired into the status of the instant patent application. On March 1, 2005, Wilbar informed Hillman about the earlier communication from Callahan to not spend any

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

[2] Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

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

[4] The e-mail stated that "Virtual Silicon's eStaff has decided to not spend any more money on NVM patents for any reason....The reason is that the company is not going down the NVM path anymore."

additional money on the application, and that the application had gone abandoned. A few days later Hillman instructed the firm to revive the application.

On petition, petitioner states that Mr. Callahan "errorously [sic] sent the instructions not spend money on this application." However, petitioner has not demonstrated any negligence on the part of Callahan.

If petitioner can not meet the showing required to establish unavoidable delay, petitioner may seek to revive the application under 37 CFR 1.137(b) - unintentional delay. A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

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

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

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

Telephone inquiries concerning this 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
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Alexandria, VA 22313-1450
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NOV 10 2005

OFFICE OF PETITIONS

In re Application of	:	
Gregorio Spadia	:	
Application No. 10/147,229	:	ON PETITION
Filed: May 15, 2002	:	
Attorney Docket No. VST-002	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed September 16, 2005.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a reply to the non-final Office action mailed August 17, 2004. This Office action set a shortened statutory period for reply of three (3) months. No extensions of time under 37 CFR 1.136(a) were obtained. No reply having been received, the above-identified application became abandoned on November 18, 2004. A Notice of Abandonment was mailed on March 7, 2005. Applicant filed a petition to revive under 37 CFR 1.137(a) on April 11, 2005. However, the petition was dismissed in a decision mailed on June 16, 2005.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of an amendment.

The application file is being forwarded to Group Art Uni 2814 for consideration of the amendment filed September 16, 2005.

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.

THE LUBRIZOL CORPORATION
ATTN: DOCKET CLERK, PATENT DEPT.
29400 LAKELAND BLVD.
WICKLIFFE, OH 44092

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AUG 0 7 2003

OFFICE OF PETITIONS

In re Application of :
Stuart L. Bartley et al :
Application No. 10/147,238 :
Filed: May 16, 2002 :
Attorney Docket No. 3139R :

This is a decision on the petition, filed August 6, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 16, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

After receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 1764 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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MAR 26 2007

OFFICE OF PETITIONS

The Lubrizol Corporation
Attn: David Shold
29400 Lakeland Blvd.
Wickliffe, OH 44092

In re Application of
Bartley 8et al.
Application No. 10/147,238
Patent 7,045,488
Filed: May 16, 2002

:
:
:DECISION GRANTING PTA REQUEST
PETITION:
:

This decision is in response to Patentee's "PETITION FOR REVISION TO PATENT TERM ADJUSTMENT 37 CFR 1.705(b)" timely[1] filed on June 5, 2006 requesting that the Office adjust the PTA from a determination of 53 days to a determination of 641 days.

Patentees petition is GRANTED. The correct amount of PTA at the time of the issuance of the patent is 641 days as suggested by patentees. The Office will adjust the PTA amount reflected IN PAIR. In addition, the Office will *sua sponte* issue a certificate of correction reflecting this decision.

Patentees assert that the Office erred in the determination of 53 days. Patentees assert that the proper amount of PTA is 641 days. Patentees assert that the Office erred in entering the correct issue fee payment date into the PALM record. Accordingly, the Office did not calculate the correct amount of PTA pursuant to 37 CFR 1.702(a)(4). Patentees assert that the correct amount of PTA for this particular period is 674 days. Patentees assert that the Office may have erred in failing to assert a reduction for the submission of an RCE after payment of the issue fee along with the petition. Patentees assert that this may reduce the PTA by a period of 33 days.

Patentees arguments are deemed persuasive to the extent herein indicated. A review of the file history reveals that the correct date of the Issue fee payment was March 11, 2004 not March 11, 2005. Accordingly, the Office erred in not providing applicant 674 days for failing to issue the application within four months of the payment of the issue fee and other requirements being satisfied. In addition, the Office erred in assessing a 312 day reduction for late submission of the issue fee payment. In addition, Patentees are correct in that the submission of an RCE after payment of issue fee amounted to a reduction under 37 CFR 1.704(c)(10) in an amount of 33 days. Accordingly, the Office notes that the PTA amount is 641 days (674-33=641).

After the mailing of this decision, the Office will forward this application to the Office of Publications (Certificate of Correction) branch for a prompt issuance of the certificate of correction.

The Office has assessed the $200.00 fee pursuant to 37 CFR 1.18(e). No additional fees are

[1]Patent issued on May 16, 2006.

required in deciding this request.

Any questions concerning this decision should be directed to Kery Fries, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy, at 571-272-7757.

/Kery A Fries/

Kery A. Fries
Senior Legal Advisor,
Office of Patent Legal Administration
Office of Deputy Commissioner
For Patent Examination Policy

cc: Adjusted PAIR calculation
DRAFT CERTIFICATE OF CORRECTION

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	7,045,488 B2
DATED	:	May 16, 2006
INVENTOR(S)	:	Bartley 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 (53) days

Delete the phrase "by 53 days" and insert – by 641 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MAY 31 2005

Kenneth E. Horton
Kirton & McConkle
60 East South Temple
Suite 1800
Salt Lake City, UT 84111

In re Application of	:	
Mikhail Skliar et al	:	DECISION ON PETITION
Serial No. : 10/147,259	:	UNDER 37 CFR 1.181
Filed : May 15, 2002	:	
For : Physiologically-Based Control System and Method For Using the Same	:	

This decision is responsive to applicants' petition received April 1, 2005 requesting a review of the facts that led to making the action of December 30, 2004 final, and a withdrawal of the final status of that action. Such a petition is provided under 37 CFR 1.181 which invokes the supervisory authority of the Director to review nonappealable matters relating to prosecution of a patent application. There is no fee required for this petition.

A summary of the examiner's Office actions and of applicants' responses thereto is as follows:

1. A first Office action was mailed August 11, 2004 rejecting, *inter alia*, claims 4 and 11 under 35 U.S.C. 103(a) as being unpatentable over Gummesson et al.

2. Applicants' response filed November 15, 2004 made no amendments whatsoever to the claims. Applicants only required reconsideration of the position taken by the examiner in the Office action of August 11, 2004. No Information Disclosure Statement was filed.

3. A second, final Office action was mailed on December 30, 2004. In this Office action claims 4 and 11 were again rejected under 35 U.S.C. 103, but this time over Gummesson et al in view of McEwen.

4. On April 1, 2005 (certificate of mailing dated March 30, 2005), applicants filed the instant petition as well as an amendment responsive to the Office action of December 30, 2004.

In the instant petition, applicants contend that making the Office action of December 30, 2004 final was improper as the response filed November 15, 2004 did not amend claims 4 and 11, yet they were rejected on a new combination of references.

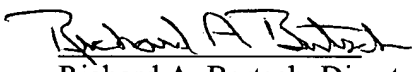
Section 706.07(a) of the Manual of Patent Examining Procedure (MPEP), Revision 2 dated May 2004, discusses the guidelines to be followed when making an Office action final. The MPEP indicates that an

action may be made final on a second action "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 (IDS) filed during the period set forth in 37 C.F.R. 1.97(c)".

After a careful review of the facts, it is clear that the rejection of claims 4 and 11 on new grounds was not necessitated by applicants' amendment (no changes were made to these claims) nor was it based on information submitted in an IDS filed by applicant (no IDS was filed). Accordingly, the finality only of the Office action mailed December 30, 2004 will be withdrawn and the response filed April 1, 2005 will be entered.

Upon the mailing of this decision, the file will be forwarded to the Supervisory Legal Instruments Examiner for the withdrawal of the finality of the Office action of December 30, 2004 and entry of the amendment filed April 1, 2005, prior to returning the file to the examiner for treatment of the amendment on the merits.

Summary: Finality of Office action mailed December 30, 2004 withdrawn.
Amendment filed April 1, 2005 entered.



Richard A. Bertsch, Director
Technology Center 3700
Phone: (571) 272-3750

ak/05/22/05

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Paper No. 9

CLIFFORD H. KRAFT
320 ROBIN HILL DRIVE
NAPERVILLE IL 60540

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DEC 17 2002

OFFICE OF PETITIONS

In re Application of :
Ota et al. :
Application No. 10/147,267 : DECISION GRANTING
Filed: 14 May, 2002 : PETITION
Attorney Docket No. FP 646 US/CIP :

This is a decision on the petition filed on 21 October, 2002, which is treated as a petition under 37 CFR 1.10(c) requesting that the above-identified application be accorded a filing date of 14 May, 2002, rather than the presently accorded filing date of 16 May, 2002.

Petitioners allege that the application was deposited in Express Mail service on 14 May, 2002. In support, petitioners supplied, with the present petition, a copy of a USPS Express Mail Post Office to Addressee label bearing Express Mail label No. EU076108002US (the same Express Mail number found on a paper attached to the itemized transmittal sheet accompanying the original application papers located in the official file) and a "date-in" of 05/14/02.

In view of the above, the petition is granted.

The petition fee of $130.00 is unnecessary and will be refunded to counsel's deposit account, No. 50-1142 as authorized on the application transmittal sheet.

The application is being forwarded to the Office of Initial Patent Examination for correction of the filing date to 14 May, 2002, and for issuance of a corrected filing receipt.
Thereafter, the application will be forwarded to Technology Center 2800 for examination in due course.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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New York, NY 10020-1105

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OCT 2 4 2002

OFFICE OF PETITIONS

In re Application of	:
Howard W. Lutnick et al	:
Application No. 10/147,269	: DECISION GRANTING
Filed: May 14, 2002	:STATUS UNDER 37 CFR 1.47(a)
Attorney Docket No: CF-037	:
	:

This is in response to the petition under 37 CFR 1.47(a), filed August 29, 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
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

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JUN 22 2007

OFFICE OF PETITIONS

In re Patent No. 7,198,934 :
Issued: April 3, 2007 : DECISION ON APPLICATION FOR
Application No. 10/147,284 : PTA and NOTICE OF INTENT
Filed: May 15, 2002 : TO ISSUE CERTIFICATE OF
Atty. Dkt. No.: 2316.1006-001 : CORRECTION

This decision is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT-POST GRANT," filed May 1, 2007. This matter is being properly treated under 37 CFR 1.705(d) as an application for patent term adjustment.

The request for reconsideration of patent term adjustment (PTA) is **GRANTED**.

The above-identified application matured into U.S. Patent No. 7,198,934 on April 3, 2007. The instant request for reconsideration was timely filed May 1, 2007 in accordance with 37 CFR 1.705(d). The patent issued with a PTA of 46 days. Patentees argue that the adjustment accorded the patent was improperly reduced 77 days in connection with an entry on January 17, 2007 for "Supplemental Papers (Oath or Declaration)."

A review of the application history reveals that the adjustment of 355 days was improperly reduced 77 days, as argued by patentees, in connection with the "Supplemental Papers (Oath or Declaration)" entry dated January 17, 2007. Review of the record reveals that there was no applicant submission on that date, as argued by patentees.

In view thereof, at the time of issuance, the patent was entitled to an adjustment of 123 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 123 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 Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

CC: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	7,198,934 B2
DATED	:	April 3, 2007
INVENTOR(S)	:	Sutter, 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 46 days

Delete the phrase "by 46 days" and insert – by 123 days--

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Paper No. 14

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701 FIFTH AVE
SUITE 6300
SEATTLE WA 98104-7092

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NOV 03 2003

OFFICE OF PETITIONS

In re Application of :
LUCA FONTANELLA : DECISION GRANTING
Application No. 10/147,290 : PETITION
Filed: May 15, 2002 :
Attorney Docket No. 854063.688 :

This is a decision on the petition under 37 CFR 1.10(c), filed October 24, 2003, requesting that the above-identified application be accorded a filing date of May 15, 2002, rather than the presently accorded filing date of May 14, 2002.

Petitioner alleges that the application was deposited in Express Mail service on May 15, 2002. In support of the allegation, the petition is accompanied by a copy of Express Mail label No. EL897869862US. The "date-in" indicated on the Express Mail label is May 15, 2002. Additionally, the Express Mail label contains a United States Postal Service (USPS) stamp of May 15, 2002. The same Express Mail label number was placed on the original application papers located in the official file.

In view of the above, the petition is **granted**. No petition fee is necessary.

This application file will be forwarded to the Office of Initial Patent Examination for correction of the filing date to May 15, 2002.

Telephone inquiries should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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701 FIFTH AVE
SUITE 6300
SEATTLE, WA 98104-7092

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OCT 11 2005

OFFICE OF PETITIONS

In re Patent No. 6,879,135 :
Issue Date: April 12, 2005 :
Application No. 10/147,290 : ON PETITION
Filed: May 15, 2002 :
Attorney Docket No. 854063.688 :

This is a decision on the petition filed August 2, 2005, which is being treated as a petition under 37 CFR 3.81[1] to correct the assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted**.

The Certificate of Correction filed August 2, 2005, also indicate that the inventor's residence be corrected to show Cusago, Italy instead of Venezia, Italy. Since the executed Oath/Declaration filed August 19, 2002, shows that the inventor's residence is listed as Cusago, Italy, the Certificate of Correction will also reflect the above information.

Finance records show that the Office mistakenly charged petitioner $400 for treatment of the instant petition. Since a petition under 37 CFR 3.81 requires a $130 processing fee, the overpayment of $270 will be refunded to petitioner's deposit account.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226. Questions concerning the Certificate of Correction may be directed to the Certificates of Correction Branch at (703) 305-8309.

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

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

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COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 11

Date : October 27, 2003

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of **Application No. 10/147,302**

Applicant(s) : Iichi Wako et al
Application No. : 10/147,302
Filed : May 17, 2002

The above-identified application has been assigned Patent No. 6,639,565 and an issue date of October 28, 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 October 28, 2003:

"All reference to Patent No. 6,639,565 to Iichi Wako et al of Japan for SEMICIRCULAR RADIAL ANTENNA appearing in the Official Gazette of October 28, 2003 should be deleted since no patent was granted."

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

cc: Geraldine Dozier, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara K. Greene, PK3-910

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Paper No. 10

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OCT 27 2003

OFFICE OF PETITIONS

SUGHRUE MION PLLC
2100 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20037-3213

In re Application of :
Iichi Wako et al :
Application No. 10/147,302 : DECISION GRANTING PETITION
Filed: May 17, 2002 : UNDER 37 CFR 313(c)(2)
Attorney Docket No. Q70119 :

This is a decision on the petition, filed October 27, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 28, 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 2821 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

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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).

****
*** TX REPORT ***
****

TRANSMISSION OK

TX/RX NO	0302
RECIPIENT ADDRESS	912022937860
DESTINATION ID	
ST. TIME	10/27 16:56
TIME USE	00'32
PAGES SENT	1
RESULT	OK

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Paper No. ____

SUGHRUE MION PLLC
2100 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20037-3213

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OCT 2 7 2003

OFFICE OF PETITIONS

In re Application of :
Iichi Wako et al :
Application No. 10/147,302 : DECISION GRANTING PETITION
Filed: May 17, 2002 : UNDER 37 CFR 313(c)(2)
Attorney Docket No. Q70119 :

This is a decision on the petition, filed October 27, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 28, 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 2821 for processing of the request for continued examination under 37 CFR 1.114.

Frances Hicks
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NOV 30 2004

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

In re Application of	:
Frank Schaefer et al	:
Serial No.: 10/147,322	: PETITION TO MAKE SPECIAL
Filed: May 17, 2002	:
Attorney Docket No.: SCHAEFER 1	:

This is in response to the petition filed June 12, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based environmental quality.

Applicant petitions on the basis that the invention will enhance the quality of the environment. M.P.E.P. 708.02, Part V, gives guidance in this matter, as follows:

> The Patent and Trademark Office will accord "special" status to all patent applications for inventions which materially enhance the quality of the environment of mankind **by contributing to the restoration or maintenance of the basic life - sustaining natural elements - air, water, and soil.**
>
> All applicants desiring to participate in this program should petition that their applications be accorded "special" status. Such petitions should be accompanied by verified statements under 37 CFR 1.102 by the applicant or assignee or statements by an attorney/agent registered to practice before the PTO ** explaining how the inventions contribute to the restoration or maintenance of one of these life - sustaining elements. No fee is required for such a petition, 37 CFR 1.102(c).

Applicant's claims are directed to detection of microsporidial species. The source of the sample to be tested is not given in the claims. Mere detection without more does not satisfy the provisions highlighted above. The guidance highlighted above indicates that the application must contribute to the **restoration or maintenance** of air, soil or water.

Applicant's petition is **DENIED**.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the general Office facsimile number.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

FROMER LAWRENCE & HAUG
745 FIFTH AVENUE - 10 FL
NEW YORK NY 10151

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SEP 2 4 2002

OFFICE OF PETITIONS

In re Application of
Lamb, et al.
Application No. 10/147,329
Filed: May 16, 2002
Attorney Docket No. 674525-2004

DECISION GRANTING-IN-PART PETITION

This is a decision on the petition under 37 CFR 1.53, filed August 7, 2002 (supplemented by facsimile transmission received September 19, 2002), requesting that the above-identified application be accorded a filing date of May 16, 2002, with the drawings of Figures 1 -2 as a part of the original disclosure.

The application was filed on May 16, 2002, as a continuation in part application under 37 CFR 1.53(b) based on prior PCT application PCT/GB00/04391. However, on June 7, 2002, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application", stating that the application had not been accorded a filing date because the application was deposited without drawings.

As stated in MPEP § 601.01(f), it is the practice of the PTO to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP § 601.01(f) also states that:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description.

This application contains method claims, namely claims 1-44. Therefore, the application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g).

In view of the above, the "Notice of Incomplete Nonprovisional Application" mailed June 2, 2002, was mailed in error and is hereby **VACATED**.

The above-identified application is accorded a filing date of May 16, 2002, as requested in the petition.

Accordingly, the petition is **GRANTED** to the extent that the application will be accorded the May 16, 2002 filing date without the drawings containing Figures 1 - 2 as a part of the original disclosure.

However, MPEP § 201.06(c)(B) states that if an "application as originally filed includes a proper incorporation by reference of the prior application(s), an omitted specification and/or drawing figure(s)...may be added by amendment provided the omitted item(s) contains only subject matter in common with such prior application(s)." Accordingly, the examiner will make the determination whether Figures 1 - 2 submitted by amendment contain new matter.

Given the basis for granting this petition, payment of the petition fee is unnecessary. Petitioner may request a refund of this fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

This application is being forwarded to the Office of Initial Patent Examination for further processing, including mailing of a filing receipt, with a filing date of May 16, 2002, and for indication on the file wrapper label that "0" sheets of drawings were present on filing. Thereafter the application will be forwarded to the examiner for consideration of the amendment filed with the petition.

Telephone inquiries specific to this decision may be directed to Petitions Attorney Cliff Congo at (703) 305-0272.

E. Shirene Willis 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

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KAPLAN GILMAN GIBSON & DERNIER L.L.P.
900 ROUTE 9 NORTH
WOODBRIDGE NJ 07095

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OFFICE OF PETITIONS

In re Application of	:	
Naik et al.	:	
Application No. 10/147,333	:	ON PETITION
Filed: May 15, 2002	:	
Attorney Docket No. 312/30	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 2, 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 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

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

MORRIS E. COHEN
SUITE 217
1122 CONEY ISLAND AVENUE
BROOKLYN, NY 11230-2345

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JUL 2 9 2004

OFFICE OF PETITIONS

In re Application of
Morris E. Cohen
Application No. 10/147,346
Filed: May 16, 2002
Attorney Docket No. 4018.002.200

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

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 19, 2003, 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 application set forth in the amendment submitted with the instant petition.

The petition is **Granted**.

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

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

---

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

The instant application was filed on May 16, 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 16, 2002. Intermediate Application No. 09/280,483, was filed within twelve months of provisional Application No. 60/079,884, which was filed on March 30, 1998, 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.

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

The examiner of Technology Center Art Unit 3624 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 application.

Karen Creasy

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

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

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

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MAR 0 4 2004

OFFICE OF PETITIONS

In re Application of :
Michele Boscolo et al :
Application No. 10/147,347 :
Filed: May 16, 2002 :
Attorney Docket No. 00AG34353341 :

ON PETITION

This is a decision on the petition, filed March 3, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

Telephone inquiries should be directed to the undersigned at (703) 306-5685.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2838 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7-26-06

TO SPE OF : ART UNIT 2812

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/147353 Patent No.: 6969664

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.

Check Drawings

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

EUpong

Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

_____

_____

_____

_____

SPE 2812 Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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Washington, D.C. 20231
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Paper No. 9

MCDERMOTT WILL & EMERY
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

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JAN 2 4 2003

OFFICE OF PETITIONS

In re Application of :
Tonai et al. :
Application No. 10/147,358 : DECISION ON PETITION
Filed: May 17, 2002 :
Attorney Docket No. 50212-392 :

This is a decision on the "Petition and Response to Notice of Omitted Items in a Nonprovisional Application," filed December 27, 2002. This petition is properly treated as a petition under § 1.53(e)(2)[1], requesting that the English translation of page 29 of the specification be entered in the above-identified application.

Application papers in the above-identified application were deposited on May 17, 2002. On June 24, 2002, the Office of Initial Patent Examination mailed a "Notice to File Missing Parts of Nonprovisional Application," requiring applicants to submit the following missing items: the statutory basic filing fee; an oath or declaration; a late surcharge under § 1.16(l); an English translation of the specification and a statement that the translation is accurate; the $130 fee under § 1.17(i); and any additional claim fees which may be due. On October 24, 2002, applicants filed a response to this Notice. This response was made timely by an accompanying petition and fee for a two-month extension of time.

However, on November 18, 2002, the Office of Initial Patent Examination mailed a "Withdrawal of Previously Sent Notice," notifying applicants that the Notice mailed June 24, 2002 was mailed in error and was withdrawn. A corrected Notice, setting forth a new period for reply, was enclosed. The corrected "Notice of Omitted Item(s) in a Nonprovisional Application," notified applicants that a filing date had been accorded to the application; however, page 29 of the specification appeared to have been omitted. In response, applicants timely filed the instant petition under § 1.53(e).

On instant petition, applicants assert that page 29 of the English translation of the specification was filed on October 24, 2002. In support thereof, petitioner submits a copy of their return postcard receipt, itemizing 51 pages of English translation of the specification as being filed therewith and bearing a USPTO date of receipt stamp of October 24, 2002.

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[1] (e) Failure to meet filing date requirements .
(2) Any request for review of a ... notification that the original application papers lack a portion of the specification or drawing(s), must be by way of a petition pursuant to this paragraph accompanied by the fee set forth in § 1.17(h). In the absence of a timely (§ 1.181(f)) petition pursuant to this paragraph, the filing date of an application in which the applicant was notified of a filing error pursuant to paragraph (e)(1) of this section will be the date the filing error is corrected.

The Office will accord a filing date to an application meeting the requirements of 35 U.S.C. 111(a), even though some or all of the application papers, including the written description and the claims, are in a language other than English and hence does not comply with 37 CFR 1.52. A review of the application file reveals that the application as filed, though in Japanese, was entitled to and was accorded a filing date of May 17, 2002. Further, the application as filed included "page 29" of the specification, albeit in Japanese.

A review of the application file reveals that page 29 is not among the papers filed on October 24, 2002 (i.e., the English translation filed in reply to the "Notice to File Missing Parts of Nonprovisional Application). Nonetheless, petitioner's postcard receipt serves as *prima facie*[2] evidence that this page was among the papers filed on October 24, 2002, but misplaced by the Office.

In view thereof, the petition is **GRANTED**. Given the basis for granting the petition, the petition fee is subject to refund. Accordingly, the authorized petition fee will not be charged.

Further, the "Withdrawal of Previously Sent Notice," mailed November 18, 2002, was sent in error to the extend that it withdrew the requirements set forth in the "Notice to File Missing Parts of Nonprovisional Application," mailed June 24, 2002. A review of the application file supports a conclusion that the missing items were required. Accordingly, on October 24, 2002, applicants timely responded.

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

- further processing with a **filing date of May 17, 2002**, using the application papers received in the Office on that date and the English translations thereof filed October 24, 2002, including the English translation of page 29 resubmitted on December 27, 2002;
- verification that the responses filed October 24, 2002, have been properly processed; and
- issuance of a corrected filing receipt.

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

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

E Shirene Wells for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

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[2] 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.

UNITED STATES 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

CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE WA 98101-2347

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MAY 0 9 2003

OFFICE OF PETITIONS

In re Application of
Michael B. Mathews et al.
Application No. 10/147,362
Filed: May 13, 2002
Attorney Docket No. INFM119029

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition filed under 37 CFR 1.47(a) on January 28, 2003.

The petition is **GRANTED**.

Petitioner has shown that non-signing inventor Kevin C. Wonus has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of Peter Holland as well as copies of E-mail correspondence between the parties establishes that the inventor was personally presented with copies of the application papers but refuses to sign the declaration naming him as a joint inventor along with Michael B. Mathews, Mark J. Seilstad and Li Wang.

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

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

The application is being forwarded to the Office of Initial Patent Examination to be processed in due course.

Telephone inquiries related to this decision 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
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Paper No. 7

KEVIN C. WONUS
5301 OCEAN AVENUE
EVERETT, WA 98203

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MAY 0 9 2003

OFFICE OF PETITIONS

In re Application of
Michael B. Mathews et al.
Application No. 10/147,362
Filed: May 13, 2002
For: METHOD AND APPARATUS FOR IMPLEMENTING A DATA MANAGEMENT SYSTEM USING A METADATA SPECIFICATION

Dear Mr. Wonus:

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 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:
CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE WA 98101-2347

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AGENSYS C/O MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO CA 92130-2040

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OFFICE OF PETITIONS

In re Application of :
Jakobovits et al. :
Application No. 10/147,368 : DECISION ON PETITION
Filed: May 15, 2002 : UNDER 37 CFR 1.78(a)(3) and (a)(6)
Attorney Docket No. 511582002421 :

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed June 27, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application(s) as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application(s) claiming the benefit of the prior-filed provisional application(s) must have been filed within twelve months of the filing date of the prior-filed provisional application(s).

All of the above requirements having been satisfied, the late claim for benefit of priority to the prior-filed applications under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

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

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

Any questions concerning this matter may be directed to Charlema Grant at (571) 272- 3215 . All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center Art Unit 1642 for consideration by the examiner of the claim for benefit of priority under 35 U.S.C. § §120 and 119(e) to the prior-filed nonprovisional and provisional applications.

Frances Hicks
Petitions Examiner
Office of Petition

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/147,368	05/15/2002	1642	453	511582002421	84	11	2

CONFIRMATION NO. 8656
CORRECTED FILING RECEIPT
OC000000021191819
OC000000021191819

36327
AGENSYS C/O MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

Date Mailed: 11/13/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Aya Jakobovits, Beverly Hills, CA;
Mary Faris, Los Angeles, CA;
Arthur B. Raitano, Los Angeles, CA;
Robert Kendall Morrison, Santa Monica, CA;
Douglas Saffran, Encinitas, CA;
Wangmao Ge, Culver City, CA;
Pia M. Challita-Eid, Encino, CA;

Power of Attorney: The patent practitioners associated with Customer Number **25225**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/001,469 10/31/2001
which claims benefit of 60/291,118 05/15/2001
and is a CIP of 09/680,728 10/05/2000 PAT 6,790,631
which claims benefit of 60/157,902 10/05/1999

Foreign Applications

If Required, Foreign Filing License Granted: 06/12/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/147,368

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

METHODS TO INHIBIT GROWTH OF PROSTATE CANCER CELLS

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING

LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO CA 92130-2040

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NOV 0 6 2007

OFFICE OF PETITIONS

In re Application :
Aya Jokobovits et al. :
Application No. 10/147,368 : DECISION ON APPLICATION
Filed: May 15, 2002 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. **511582002421** :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)," filed February 28, 2007. Applicant requests that the initial determination of Patent Term Adjustment under 35 U.S.C. 159(b) be corrected from two hundred fifty-nine (259) days to four hundred seventy one (471) days. This request is made in part on the basis that the Office will take in excess of three years to issue the patent.

The application for patent term adjustment is **GRANTED TO THE EXTENT INDICATED HEREIN**.

To the extent that the instant application for patent term adjustment requests reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance 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).

Patentee 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. Patentee 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.

Applicant also notes that a Supplemental Information Disclosure Statement was filed on August 4, 2005 and that a second Supplemental Information Disclosure Statement was filed on October 21, 2005, after the response to the non-Final Office Action of June 20,

2005 and thus that the Patent Term Adjustment should be reduced by an additional 168 days for applicant delay.

Petitioner's argument is persuasive within the meaning of 37 CFR 1.704(c)(8). 37 CFR 1.704(c)(8) provides that:

> Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;

Accordingly, additional days should have been deducted for the filing of the Supplemental Information Disclosure Statements however, the period should have been from June 21, 2005, the day after the second supplemental response was filed, until October 21, 2005, the day the supplemental reply was filed, for a total of 123 days of applicant delay.

It is noted that the forty-five (45) days attributable to Applicant delay for filing the IDS on August 4, 2005 overlaps with the one hundred twenty three (123) days attributable to applicant delay for filing the IDS on October 21, 2005.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is ONE HUNDRED THIRTY-SIX (136) days.

The petition fee in the amount of $200.00 as set forth in 37 CFR 1.18(e) has been deducted from deposit account no. 03-1952, as authorized.

The application file is being forwarded to the Office of Patent Publication 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 letter should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of adjusted PAIR calculation

PTA Calculations for Application: 10/147368			
Application Filing Date:	05/15/2002	PTO Delay (PTO):	421
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	162
Post-Issue Petitions:	0	Total PTA (days):	136
PTO Delay Adjustment:	-123		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
106	11/05/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		123	
89	12/28/2006	MAIL NOTICE OF ALLOWANCE	210		60
88	12/26/2006	ISSUE REVISION COMPLETED			
87	12/22/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
86	12/22/2006	NOTICE OF ALLOWABILITY			
85	07/19/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
84	11/17/2006	MAIL-PETITION DECISION - GRANTED			
83	06/27/2006	PETITION ENTERED			
82	08/02/2006	DATE FORWARDED TO EXAMINER			
81	06/27/2006	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
80	07/19/2006	REFERENCE CAPTURE ON IDS			
79	07/19/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
78	06/14/2006	MAIL ADVISORY ACTION (PTOL - 303)			
77	06/12/2006	ADVISORY ACTION (PTOL-303)			
76	05/31/2006	REFERENCE CAPTURE ON IDS			
75	10/21/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
74	02/13/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
73	08/04/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
72	05/31/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
71	05/31/2006	INFORMATION DISCLOSURE STATEMENT (IDS)			

		FILED			
70	06/07/2006	DATE FORWARDED TO EXAMINER			
69	05/31/2006	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
68	06/06/2006	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
67	05/03/2006	NOTICE OF APPEAL FILED			
66	05/03/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
65	01/20/2005	REFERENCE CAPTURE ON IDS			
64	04/23/2004	REFERENCE CAPTURE ON IDS			
63	02/13/2003	REFERENCE CAPTURE ON IDS			
62	02/13/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
61	02/13/2006	DATE FORWARDED TO EXAMINER			
60	02/01/2006	AMENDMENT AFTER FINAL REJECTION			
59	02/09/2006	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
58	11/03/2005	MAIL FINAL REJECTION (PTOL - 326)	14		50
57	10/21/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
56	10/31/2005	FINAL REJECTION			
54	06/20/2005	NEW OR ADDITIONAL DRAWING FILED			
53	09/28/2005	DATE FORWARDED TO EXAMINER			
52	06/20/2005	SUPPLEMENTAL RESPONSE		0	50
51	09/28/2005	DATE FORWARDED TO EXAMINER			
50	06/20/2005	RESPONSE AFTER NON-FINAL ACTION			
49	08/04/2005	REFERENCE CAPTURE ON IDS			
48	08/04/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
47	04/25/2005	MAIL NON-FINAL REJECTION			
46	04/18/2005	NON-FINAL REJECTION			
45	01/20/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		1	43
44	02/10/2005	DATE FORWARDED TO EXAMINER			
43	01/19/2005	RESPONSE AFTER NON-FINAL ACTION		26	38
42	01/19/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
41	01/19/2005	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			

40	02/07/2005	ERROR(S) IN CRF CORRECTED BY STIC			
39	01/19/2005	WORKFLOW INCOMING AMENDMENT IFW			
38	09/24/2004	MAIL NON-FINAL REJECTION			
37	08/23/2004	NON-FINAL REJECTION			
36	07/01/2004	DATE FORWARDED TO EXAMINER			
35	06/22/2004	RESPONSE TO ELECTION / RESTRICTION FILED			
34	06/22/2004	WORKFLOW INCOMING AMENDMENT IFW			
33	05/28/2004	MAIL RESTRICTION REQUIREMENT			
32	05/27/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
31	04/23/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		42	26
30	04/14/2004	CORRESPONDENCE ADDRESS CHANGE			
29	03/12/2004	WORKFLOW INCOMING AMENDMENT IFW			
28	03/18/2004	IFW AMENDED CASE PROCESSING COMPLETE			
27	03/18/2004	DATE FORWARDED TO EXAMINER			
26	03/12/2004	RESPONSE TO ELECTION / RESTRICTION FILED			
25	03/12/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
24	01/28/2004	MAIL RESTRICTION REQUIREMENT	197		-1
23	01/26/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
22	10/31/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
21	08/15/2003	CORRESPONDENCE ADDRESS CHANGE			
20	04/16/2003	CASE DOCKETED TO EXAMINER IN GAU			
19	12/16/2002	PRELIMINARY AMENDMENT			
18	12/16/2002	PRELIMINARY AMENDMENT			
17	02/24/2003	APPLICATION DISPATCHED FROM OIPE			
16	02/04/2003	APPLICATION IS NOW COMPLETE			
15	12/16/2002	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM		93	6
14	05/15/2002	CLAIM PRELIMINARY AMENDMENT			
13	12/16/2002	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
12	12/16/2002	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
11	12/16/2002	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
10	12/16/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC			

		115, OATH OF THE APPLIC			
9	12/16/2002	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
8	01/23/2003	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
7	08/25/2002	RECEIPT OF ALL ACKNOWLEDGEMENT LETTERS			
6	06/14/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	06/05/2002	REFERRED BY L&R FOR THIRD-LEVEL SECURITY REVIEW. AGENCY REFERRAL LETTER GENERATED			
3	05/29/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	05/24/2002	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

DATE : January 22, 2010

TO SPE OF : ART UNIT 1795
SUBJECT : Request for Certificate of Correction for Appl. No.:10/147370 /Patent no. 7597791

Please respond to this request for a certificate of correction w
ithin 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: _____

Nam Nguyen SPE 1795
2/12/10

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HENRICKS SLAVIN AND HOLMES
SUITE 200
840 APOLLO STREET
EL SEGUNDO CA 90245

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AUG 0 1 2005

OFFICE OF PETITIONS

In re Application of :
Michael C. Kaye et al :
Application No. 10/147,380 : ON PETITION
Filed: May 15, 2002 :
Attorney Docket No. 016465-018 :

This is a decision on the petition, filed July 28, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 4, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2673 will consider the request for continued examination under 37 CFR 1.114.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 06

Norman R. Klivans
SKJERVEN, MORRILL, MacPHERSON LLP
Suite 700
25 Metro Drive
San Jose, CA 95110-1349

MAR 3 2003

In re Application of: :
BUYNOSKI, *et al.* :
Application No. 10/147,382 :
Filed: May 15, 2002 :
For: SILICIDE-SILICON CONTACTS FOR REDUCTION OF MOSFET SOURCE-DRAIN RESISTANCES :

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed January 17, 2003.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period that can be extended under 37 C.F.R. § 1.136(a).

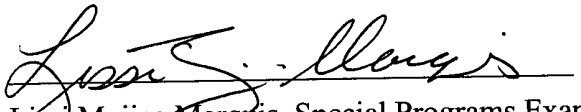
The request meets all the above requirements. The request was signed by Norman R. Klivans, an attorney of record in the above identified application and there is no outstanding Office action requiring a response by the applicant.

The request is approved.

The application currently has no attorney of record.

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

Inquiries related to this decision should be directed to Lissi Mojica Marquis at (703) 308-2260.



Lissi Mojica Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Mike Farjami
Farjami & Farjami
16148 Sand Canyon
Irvine, CA 92618

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

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MAR 28 2007

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 6,965,738
Issue Date: November 15, 2006
Application No. 10/147,397
Filed: May 15, 2002
Attorney Docket Number: IVPD-0018

This is a decision on the petition, filed November 29, 2006, requesting the issuance of a duplicate Letters Patent for the above-identified application.

The petition is **GRANTED**.

Since it is U.S. Patent and Trademark Office practice to assure mailing of all papers on the date indicated, there is a strong presumption that papers duly addressed and indicated as mailed, such as the Letters Patent in this application, are timely delivered to the addressee. To overcome this presumption, a verified statement with supporting evidence, such as any records which would disclose the receipt of other correspondence mailed from the U.S. Patent and Trademark Office on or about November 15, 2005, but fail to disclose receipt of the Letters Patent mailed on that date, should be promptly submitted. Further, copies of records on which receipt of the Letters Patent would have been entered had it been received are required.

However, if the loss of the Letters Patent was not the fault of the U.S. Patent and Trademark Office or if petitioner simply wishes to avoid overcoming the above-noted presumption, a petition may be filed under 37 CFR 1.182 accompanied by a petition fee of $400.00 requesting a duplicate Letters Patent. Upon receipt of the petition and petition fee, the request for a duplicate Letters Patent will be granted.

Petitioner notes that a revocation and power of attorney, with a change of address, was filed November 8, 2005, prior to the issuance of the patent but was not acted upon until November 15, 2005, the same date the patent issued. Thus, the patent was mailed to the wrong address. In view thereof, a copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent. Since in this instance no petition fee is due, the fees in the amount of $130.00 paid with the instant petition will be credited back to deposit account no. 23-3050. Petitioners should note for future references that the petition fee for duplicate letters patent under 37 CFR 1.182 is set at $400.00, not $130.00.

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

Telephone inquiries concerning this decision may be directed to the undersigned Senior Petitions Attorney at (571) 272-3212. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to the Publishing Division at (703) 308-9250.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc: Krystal Paige, South Tower, 8th Floor (Fax – (571) 270-9937)

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : **JANUARY 31, 2007**

TO SPE OF : ART UNIT **2618**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10147408** Patent No.: **7062257B2**

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: _____

_____

_____

_____

_____

_____ 2618
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

Patrick W. Rasche
Armstrong Teasdale LLP
Suite 2600
One Metropolitan Sq.
St. Louis MO 63102

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OCT 2 4 2002

OFFICE OF PETITIONS

In re Application of
Kawanaka
Application No. 10/147,409
Filed: May 16, 2002
Attorney Docket No. 16NW00196
For: PATIENT INFORMATION MANAGEMENT METHOD AND SYSTEM EMPLOYING THE SAME

: DECISION GRANTING
: PETITION

This is a decision on the petition entitled, "PETITION IN RESPONSE TO NOTICE OF OMITTED ITEM(S) IN A NONPROVISIONAL APPLICATION", filed August 22, 2002, requesting, in effect, withdrawal of the Notice to File Omitted Item(s) in a Nonprovisional Application (Notice) . The petition will be treated under 37 CFR 1.53(e).

The application was deposited on May 16, 2002. On June 25, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioner that drawing figure 10 described in the specification appeared to have been omitted.

In response to the Notice, petitioner timely filed the present petition. Petitioner requests that drawing figure 10 be accorded a filing date of May 16, 2002 on the basis that 13 sheets of drawing figures, including drawing figure 10, were received in the Patent and Trademark Office (PTO) on May 16, 2002. In support, the petition is accompanied by a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing May 16, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 13 sheets of drawings.

The return postcard constitutes *prima facie* evidence that 13 sheets of drawing figures, including drawing figure 10, were filed on May 16, 2002. MPEP 503. Accordingly, the request is granted.

No petition fee has been or will be charged in connection with this matter.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of May 16, 2002, using the copy of drawing figure 10 submitted with the instant petition. Office records will be corrected to show that 13 sheets of drawings were present on filing.

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
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
DFW 05-02

Paper No. 4

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

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SEP 2 0 2002

OFFICE OF PETITIONS

In re Application of	:	
Branch	:	
Application No. 10/147,434	:	DECISION GRANTING PETITION
Filed: 15 May, 2002	:	
Atty's Docket No. 45011-247365	:	

This is a decision on the petition filed on 3 September, 2002, requesting that the above-identified application, including Figure 9, be accorded a filing date of 15 May, 2002.

On 15 May, 2002, the application was filed.

On 5 July, 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 15 May, 2002, but that, *inter alia*, Figure 9 described in the specification appeared to have been omitted.

In response, on 3 September, 2002, the present petition was filed, accompanied by a copy of the 11 sheets of drawings originally filed on 15 May, 2002. Petitioners assert that Figure 9 was filed with the other application papers on 15 May, 2002, but was 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 15 May, 2002, which contains the above-identified application number, and identifies the application by attorney docket number and invention title and acknowledges receipt, *inter alia*, of 11 sheets of drawings. Petitioners request that the application, including the drawings containing Figure 9, be accorded a filing date of 15 May, 2002.

A review of the record reveals that 10 sheets of drawings, containing Figures 1-5, 6A-C, 7, 8, and 10-12 are located among the application papers deposited on 15 May, 2002. However, the evidence is convincing that the application papers deposited on 15 May, 2002, included 15 sheets of drawings and that the sheet of drawings containing Figure 9 was subsequently misplaced in the Office. Therefore, the application, including the one (1) sheet of drawing containing Figure 9 as described in the specification, is entitled to a filing date of 15 May, 2002.

The "Notice" mailed on 5 July, 2002, is vacated to the extent that it stated that Figure 9 appeared to have been omitted.

In view of the above, the petition is granted. The $130.00 petition fee will be refunded to counsel's deposit account, No. 16-0605.

The application will be processed, using the application papers filed on 15 May, 2002, and the copy of Figure 9 of the drawings supplied on 3 September, 2002. The copies of the other sheets of drawings supplied on 3 September, 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 further processing with a filing date of 15 May, 2002, using the application papers filed on 15 May, 2002, and the one (1) sheet of drawing containing Figure 9, supplied on 3 September, 2002, and for an indication on the bib-data sheet that 11 sheets of drawings were present on filing.

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

PEPPER HAMILTON LLP
ONE MELLON CENTER, 50TH FLOOR
500 GRANT STREET
PITTSBURGH PA 15219

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MAY 14 2008

OFFICE OF PETITIONS

In re Application of	:	
Joseph M. Kunze et al	:	
Application No. 10/147,448	:	DECISION GRANTING PETITION
Filed: May 16, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 55396 (71127)	:	

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

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection mailed January 17, 2007, 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 1742 to consider the reply received September 28, 2007.

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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JJGJr.: 10-03

Paper No: 7

GINGER R DREGER
HELLER EHRMAN
WHITE & MCAULIFFE LLP
275 MIDDLEFIELD ROAD
MENLO PARK CA 94025

COPY MAILED

OCT 2 8 2003

OFFICE OF PETITIONS

In re Application of: :
Baker, et al. :
Filed: 17 May, 2002 : ON PETITION
Application No. 10/147,493 :
Docket No.: 39780-3330R1C345 :

This is a decision on the petition filed herein 1 July and supplemented via FAX on 3 July, 2003, under 37 C.F.R. §1.137(b) to revive the above-identified application.

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record indicates that:

- Petitioner failed to reply timely and properly to the Notice to File Corrected Application Papers (filing date granted) mailed on 23 October, 2002, with reply due (absent an extension of time) on or before 23 December, 2002;
- the application was deemed abandoned after midnight 23 December, 2002;
- no Notice of Abandonment was mailed before the instant petition was filed;
- as indicated above, the instant petition (with fee) was filed on 1 July, 2003, and therewith the Petitioner made the statement of unintentional delay and submitted a reply in the form of the required corrected application papers.

CONCLUSION

Accordingly, in view of the showing and reply of Petitioner, the petition to revive under 37 C.F.R. §1.137(b) hereby is **granted**.

This application is being forwarded to OIPE for further processing before being forwarded for examination in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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JJGJr.: 10-03

Paper No: 8

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MENLO PARK CA 94025

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OCT 2 8 2003

OFFICE OF PETITIONS

In re Application of:
Baker, et al.
Filed: 17 May, 2002
Application No. 10/147,493
Docket No.: 39780-3330R1C345

ON PETITION

This is a decision on the paper filed as a "Petition to Accord Original Filing Date" and filed via FAX on 23 and 24 October, 2003, and properly treated as a petition under 37 C.F.R. §1.53, requesting that pages 49, 52, 54, 56, 58, 60, 68, 70, 72, 74, 76 and 78 of the specification (description and claims) be accorded a filing date of 17 May, 2002.

The petition as considered under 37 C.F.R. §1.53 is **GRANTED**, and the petition fee is waived.

The application was deposited on 17 May, 2002.

On 23 October, 2002, the Office mailed a Notice to File Corrected Application Papers (filing date granted, and noted therein that "[p]ages 49, 52, 54, 56, 58, 60, 68, 70, 72, 74, 76 and 78 of the specification (description and claims)" appeared to have been omitted.

Thereafter, on 23 and 24 October, 2003, Petitioner Ginger Dreger (Reg. No. 33,055) filed the instant petition, and

- therewith supplied:

  --a copy of the receipt card (see: MPEP §503) evidencing the deposit on 17 May, 2002, of the instant application containing, *inter alia*: "149 Pages of Specification . . . 28 Pages of Claims . . .

1 Page of Abstract . . . 550 Sheets of Drawings . . ."; and

--a copy of the documents purporting to be "[p]ages 49, 52, 54, 56, 58, 60, 68, 70, 72, 74, 76 and 78 of the specification (description and claims)";[1] and

- Petitioner's statement.

A review of the application papers reveals that the application as filed and received in the Office on 17 May, 2002, when compared to the date-stamped (17 May, 2002) copy of the receipt card filed by Petitioner and the description and claims evidence the file containing:

- 149 pages of description (consecutively numbered pages 1-149, inclusive) all present;
- 27 pages of claims (consecutively numbered pages 150-176, inclusive) all present; and
- 1 page of abstract (page 177) present.

While Petitioner's contention that no pages were missing from the application on filing is well taken, and it appears that pages 49, 52, 54, 56, 58, 60, 68, 70, 72, 74, 76 and 78 of the specification were in fact filed and later stated in error to have been absent, it also is apparent that Petitioner miscalculated the number of pages of submitted.

Therefore, the petition is **granted** to accord a filing date of 17 May, 2002, to pages 49, 52, 54, 56, 58, 60, 68, 70, 72, 74, 76 and 78 of the specification, and the petition fee is waived.

The application is being returned to OIPE for further processing with a filing date of 17 May, 2002, using the 177 pages of specification, including 149 pages of description (pages 1-149, inclusive), 27 pages of claims (pages 150-176, inclusive) and 1 page of abstract (page 177), in addition to the 550 sheets of drawings (as to which there has been no disagreement), all deposited on 17 May, 2002; and further with direction to OIPE to correct Office records to reflect that all 177 pages of specification (description, claims and abstract) as set forth above and 550 sheets of drawings were present on filing on 17 May, 2002; and forward to Petitioner a copy of the corrected filing receipt reflecting a filing date of 17 May, 2002, and reflecting therein that 177 pages of specification, including 149 pages of description (pages 1-149, inclusive), 27 pages of claims (pages 150-176, inclusive) and 1 page of abstract (page 177), and 550 sheets of drawings were present on filing.

---

[1] However, the substitute pages submitted correspond not to the original application as filed, but rather to the response to the Notice to File Corrected Application Papers, wherein a less-bold typeface was used, and the page numbers do not correspond as between the printed versions. Fortunately, as to addressing the instant matter, use of the replacement pages was and is not necessary.

Thereafter, the application will be considered by the examiner 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

UNITED STATES
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TRADEMARK OFFICE

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

Paper No. 3

JUL 15 2002

Eric D. Cohen
WELSH & KATZ, LTD
120 South Riverside Plaza
22nd Floor
Chicago, Illinois 60606

In re Application of :
Martin L. Zimmerman et al. :
Application No. 10/147,534 :
Filed: May 17, 2002 :
For: ANTENNA SYSTEM :

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102(d), filed June 24, 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 for Patent Examining Procedure (M.P.E.P.), section 708.02, item II: Infringement.

A grantable petition under 37 C.F.R. § 1.102(d), M.P.E.P. § 708.02, item II, must be accompanied by the required fee pursuant to 37 C.F.R. § 1.17(h) and allege facts under oath or declaration to show, or indicate why it is not possible to show, that:

1. there is an infringing device or product actually on the market or method in use,

2. that a rigid comparison on the alleged infringing device, product or method with the claims of the application was made,

3. that the claims are unquestionably infringed, and

4. that a careful search of the prior art was made or that applicant has good

knowledge of the pertinent prior art.

The petition satisfies the above-listed requirements for special status.

The petition is GRANTED.

The application is being forwarded to the examiner for expedited prosecution.

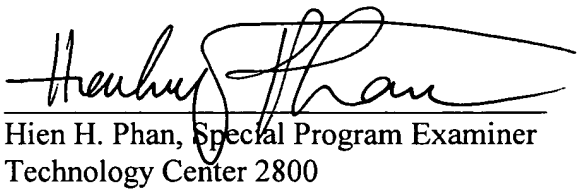
If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent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

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that he/she is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

The petition is granted to the extent indicated.



Hien H. Phan, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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
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Paper No. 21

ERIC D. COHEN, ESQ.
WELSH & KATZ, LTD.
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CHICAGO, IL 60606

COPY MAILED

OCT 29 2002

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Martin L. Zimmerman et al :
Application No. 10/147,534 :
Filed: May 17, 2002 :
Attorney Docket No. 83665C1 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 28, 2002 requesting withdrawal of the above-identified application from issue.

The petition is **dismissed** as moot for the reasons stated below.

A review of the file record discloses that a Notice of Allowance was mailed on October 16, 2002, with the issue fee being due on or before January 10, 2003. The petition states that the issue fee in this case has not been paid.

37 CFR 1.313(c)(2) provides for withdrawal of an application from issue after payment of the issue fee. In the instant case, as noted above, the issue fee in reply to the Notice of Allowance of October 16, 2001 has not been received. Therefore, the filing of a petition to withdraw this application from issue is unnecessary at this time. The mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue.

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

Upon receipt of the file in the Office of Petitions and entry of the instant petition and decision, the file will be returned to Technology Center AU 2821 for appropriate processing of the RCE filed October 28, 2002 and consideration of the IDS submitted concurrently therewith.

Karen Creasy

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

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 26

ERIC D. COHEN, ESQ.
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CHICAGO IL 60606

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JUL 1 1 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of
Martin L. Zimmerman et al
Application No. 10/147,534
Filed: May 17, 2002
Attorney Docket No. 83665C1

This is a decision on the petition, filed July 11, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 2821 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Herman H. Bams
6101 Tracy Avenue
Minneapolis MN 55436

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MAY 0 7 2004

OFFICE OF PETITIONS

In re Application of
Harvey Rosen
Application No. 10/147,562
Filed: May 20, 2002
Attorney Docket Number: 20024RI
Title of Invention: Device For Forming Fruit Kabobs

ON PETITION

This is a decision on the petition filed March 11, 2004, under 37 CFR 1.137(b) to revive the above-identified application.

This application became abandoned for failure to timely submit the issue and publication fees , as required by the Notice of Allowance and Fee (s) Due which was mailed December 1, 2003. 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 March 2, 2004. This decision precedes the mailing of a Notice of Abandonment.

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

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 (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
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WITHROW & TERRANOVA, P.L.L.C.
100 REGENCY FOREST DRIVE, SUITE 160
CARY NC 27518

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JAN 24 2008

OFFICE OF PETITIONS

In re Application of
HIETALA, Alexander Wayne
Application No. 10/147,569
Filed: May 16, 2002
Attorney Docket No. **2867-162**

: 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 January 23, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on November 13, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2611 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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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WITHROW & TERRANOVA, P.L.L.C.
100 REGENCY FOREST DRIVE
SUITE 160
CARY, NC 27518

MAILED

JUN 17 2010

OFFICE OF PETITIONS

In re Application of :
Alexander Wayne Hietala :
Application No. 10/147,569 : ON PETITION
Filed: May 16, 2002 :
Attorney Docket No. 2867-162

This is a decision on the petition, filed June 16, 2010 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 10, 2010 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 2611 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROBERT L. FARRIS
5291 COLONY DRIVE NORTH
SAGINAW, MI 48603

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JUL 12 2005

OFFICE OF PETITIONS

In re Application of	:	
Sam W. Carter	:	
Application No. 10/147,570	:	ON PETITION
Filed: May 16, 2002	:	
Attorney Docket No. 5134 P-3010.001	:	

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

The petition is **GRANTED**.

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

This matter is being referred to Technology Center AU 1644 for processing of the request for continued examination under 37 CFR 1.114.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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NOV 9 2004

Paper No. 101904

Robert Nick
PO Box 3156
Laguna Hills, CA 92654

In re Application of:
George G. Klock
Serial No.: 10/147,590
Filed: May 13, 2002
Attorney Docket No.: **NT 02/100**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed October 01, 2003.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period, which can be extended under 37 C.F.R. § 1.136(a).

The request meets all the above stated requirements. The request was signed by Michael A. O'Neil.

The request is **APPROVED**.

It is noted that the application is now abandoned. There are no attorneys of record at this time.

All future communications from the Office will be directed to the inventor, George G. Klock, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Edward P. Westin at (571) 272-1638.

Edward Westin

Edward P. Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: George G. Klock
Nanotron, Inc
1295 West Washington St., Suite 115
Tampe, AZ 85281

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Austin TX 78767

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APR 15 2005

Technology Center 2100

In re Application of: Kim
Application No. 10/147,591
Attorney Docket No. 5681-10000
Filed: 05/17/2002
For: DEVICE CENTRIC DISCOVERY AND CONFIGURATION FOR FABRIC DEVICES

) DECISION ON PETITION FOR
) SUPERVISORY REVIEW REGARDING
) FINALITY OF RESTRICTION
) REQUIREMENT UNDER 37 CFR
) §1.144

This is in response to the petition filed on February 17, 2005, under 37 CFR 1.144 requesting supervisory review of the finality of a restriction requirement mailed on November 12, 2004. Note, A petition under 37 CFR §1.144 will not be considered if reconsideration of the requirement was not requested (see §1.181).

The petition is **DISMISSED.**

RECENT PROSECUTION HISTORY

(1) A restriction requirement was mailed on August 3, 2004, in which claims 1-22 were subject to restriction and/or election requirement. The application was identified to contain the following patentably distinct species: Species 1 – Fig. 4 and Species 2 – Fig. 5.

(2) On September 7, 2004 a response to the restriction requirement was filed in which applicant provisionally elected with traverse species 1, drawn to claims 13-22. Applicant provided reasons in support of the traversal, including a discussion of M.P.E.P. 806.04(f) regarding a proper species restriction.

(3) On November 12, 2004, the Examiner issued a first office action on the merits, in response to Applicant's election of species I, wherein claims 13-22 were examined, claims 1-12 were withdrawn. This office action determined the requirement for restriction to be proper and therefore was made FINAL.

(4) On February 17, 2005, the instant petition was filed by Petitioner, under 37 CFR §1.144.

(5) On April 4, 2005, a Notice of Allowance was mailed.

RELIEF REQUESTED

The instant petition under 37 CFR 1.144 requests the following relief:

(1) withdrawal of the election requirement of August 3, 2004 (made FINAL on November 12, 2004);

(2) as a result of item (1), examination of pending claims corresponding to Figs. 4 and 5.

ANALYSIS

Petitioner provides various arguments in support of the withdrawal of the election requirement including reference to M.P.E.P. §806.04(f), which states:

> Claims to be restricted to different species must be mutually exclusive. The general test as to when claims are restricted, respectively, to different species is the fact that one claim recites limitations which under the disclosure are found in a first species but not in a second, while a second claim recites limitations disclosed only for the second species and not the first. This is frequently expressed by saying that claims to be restricted to different species must recite the mutually exclusive characteristics of such species.

In addition, note M.P.E.P. §806.03 sets forth:

> Where the claims of an application define the same essential characteristics of a single disclosed embodiment of an invention, restriction therebetween should never be required. This is because the claims are but different definitions of the same disclosed subject matter, varying in breadth or scope of definition.

Petitioner states that Figures 4 and 5 (identified Species 1 and 2) are not mutually exclusive. A review of the instant application does in fact set forth that Figs. 4 and 5 are related. Fig. 4 is a block diagram illustrating the host system (508) excluding an interface between the administration application (502), the persistent repository (506) and fabric driver (504) to assist in interfacing with fabric (510). Fig. 5 includes the interface (503) with a device centric discovery interface (520), transport centric discovery interface (522), device centric configuration interface (524) and transport centric configuration interface (526) between the administration application (502), the persistent repository (506) and fabric driver (504) to assist in interfacing with fabric (510). In addition, Petitioner is correct in that the features of figures are not required to have mutually exclusive characteristics, as evidenced in the discussion of section [0033] of the specifications. This feature may be further evidenced by the claims. For example, claim 13 does not specifically mention the interface of Fig. 5 and claim 1; however, various components of the interface are indirectly cited in the claim. The claim recites a plurality of discovered devices (520) in a device centric format (524)...corresponding to a particular transport connection (526).

However, 37 CFR 1.181(f) provides that any petition under that rule which is not filed "within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely. The petition must be filed within this period even though the period for reply to the rejection of the claims may extend beyond the 2-month period. Therefore, the Petitioner exceeded the 2-month period for reply (November 12, 2004 – February 17, 2005) making this petition untimely.

The petition is **DISMISSED** as untimely. The previous action and election requirement stands.

The application is being forwarded to TC 2100 Tech. Support Staff for appropriate processing of the currently allowed application.

Any inquiries related to this decision may be directed to the undersigned at (571) 272-3595.

Brian L. Johnson, SPRE 4/13/05
Technology Center 2100
Computer Architecture, Software, and Information Security

JC

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AUG 1 6 2005

OFFICE OF PETITIONS

In re Application of :
Nancy Jo Dohse Hanson et al :
Application No. 10/147,601 :
Filed: May 17, 2002 :
Attorney Docket No. 180.00080101 :

ON PETITION

This is a decision on the petition, filed May 17, 2002, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on July 20, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1637 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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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MAR 15 2005

OFFICE OF PETITIONS

In re Application of :
Daniel Cohen et al :
Application No. 10/147,603 : DECISION GRANTING PETITION
Filed: May 16, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. G-053US16DIV :

This is a decision on the petition, filed March 11, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee. This is also a decision on the petition filed of even date under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the additional benefit of the prior-filed provisional applications (Nos. 60/103,955; 60/106,457; and 60/132,277) set forth in the concurrently filed amendment and Application Data Sheet (ADS).[1]

The petition under 37 CFR 1.313(c)(2) is **GRANTED**.

The petition under 37 CFR 1.78(a)(6) is **GRANTED**.

DISCUSSION OF PETITION UNDER 37 CFR 1.313(c)(2)

Petitioner requests withdrawal of the above-identified application from issue for the purpose of consideration in a Request for Continued Examination (RCE) of an amendment to the application setting forth a claim for priority to the prior-filed applications set forth therein.

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 7, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request

[1] The other applications noted in the Application Data Sheet (ADS) and amendment were timely filed. Therefore, the decision is only being directed to the newly added provisional applications.

that it be applied towards the issue fee required by the new Notice of Allowance.[2]

DISCUSSION OF PETITION UNDER 37 CFR § 1.78(a)(6)

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

> **(1)** the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application(s), unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(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 above-noted, prior-filed provisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

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

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[2] *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 petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed provisional applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(5)(iii) and during the pendency of the instant application as required by 37 CFR 1.78(a)(5)(ii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the above-noted, prior-filed provisional applications satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

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

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

The matter is being referred to Technology Center AU 1637 for appropriate action on the amendment submitted of even date, including consideration by the examiner of the claim under 35

U.S.C. §119(e) for the benefit of priority to the above-noted, prior-filed provisional applications.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

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OFFICE OF PETITIONS

In re Application of	:	
Cohen et al	:	DECISION ON APPLICATION
Application No. 10/147,603	:	FOR PATENT TERM ADJUSTMENT
Filed: May 16, 2002	:	
Attorney Docket No. G-053US16DIV	:	
	:	

This is in response to the "Application for Patent Adjustment under 37 CFR § 1.705(b)" filed November 26, 2004. Applicants request that the Patent Term Adjustment indicated in the Notice of Allowance mailed on September 15, 2004 be corrected to one hundred and forty-six (146) days.

The application for patent term adjustment is **DISMISSED**.

On September 15, 2004 the first Notice of Allowance was mailed, with a Patent Term Adjustment of one hundred and forty-six (146) days. In response, Applicants timely filed the instant petition[1]. See § 1.705(d). Applicants assert that the calculated reduction of seventy-one (71) days for the Applicants' delay in responding to the Notice to File Missing Parts of Non-provisional Application is incorrect.

The Office records indicate that on November 13, 2002, the Office sent a Notice to File Missing Parts of Non-provisional

[1] PALM records indicate that the issue fee payment was received on December 7, 2004.

Application (Notice). On January 13, 2003, applicants filed a complete response (Response) to the Notice. Accordingly, the patent term was not reduced for filing of the Response on January 13, 2003. Applicants contest the patent term adjustment reduction of seventy-one (71) days; however, the Office records indicate that no such reduction was taken. Therefore, the present petition for reconsideration is dismissed.

Applicants do not dispute the one hundred and seventy-six (176) day period of adjustment for Office delay in mailing of the first Office Action, or the thirty (30) day period of reduction for applicant delay in filing of the response after Non-final Rejection. Moreover, the entry of a period of reduction of eighty-six (86) days for the filing of a Request for Continued Examination (RCE) after the first Notice of Allowance was mailed is correct.

In view of the above, the correct determination of the Patent Term Adjustment after mailing of the second Notice of Allowance is **sixty (60) days**.

In addition, it should be noted that, under 37 CFR § 1.703(b)(1), the filing of the RCE on March 11, 2005 cuts off the accumulation of any additional patent term adjustment due to the issuance of the patent more than three years after the application filing date.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The application is being forwarded to the Publishing Division for processing into a patent.

Telephone inquiries with regard to this matter should be directed to Senior Petitions Attorney Nancy Johnson at (571) 272 - 3219.

Kery Fries

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

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BATON ROUGE LA 70801-1765

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OFFICE OF PETITIONS

In re Application of :
Bonnie G. McKinnie et al :
Application No. 10/147,621 : ON PETITION
Filed: May 16, 2002 :
Attorney Docket No. FR-7246 :

This is a decision on the petition, filed May 6 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on February 25, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 1764 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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OFFICE OF PETITIONS

In re Application of	:	
Houck et al.	:	
Application No. 10/147,633	:	ON PETITION
Filed: May 16, 2002	:	
Attorney Docket No. 432345	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 19, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (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 1600 for further examination on the merits.

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

Liana Chase
Petitions Examiner
Office of Petitions

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7/2/07

SUE Z. SHAPER, P.C.
1800 WEST LOOP SOUTH
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HOUSTON TX 77027

In re Application of:
WILLIAMS, DWIGHT P.
Serial No.: 10/147,647
Filed: May 16. 2002
Docket: 50069
Title: FIRE FIGHTING METHOD AND APPARATUS DEPLOYED AFTER FLAME COLLAPSE FOR EXTINGUISHING "SMILEY FACE"

DECISION ON PETITION

This is a decision on the petition filed on November 3, 2006 by which the petitioner requests clarification of 37 CFR § 41.37(c)(1)(ix) in light of M.P.E.P. 1205.02. The petitioner also requests that where the original brief is found to be compliant with 37 CFR § 41.37(c)(1)(ix), the appeal should not be penalized in lost time. The petition is being considered pursuant to 37 CFR § 1.181(a) and no fee is required.

The petition is **DISMISSED**.

The examiner found the petitioner's Appeal Brief defective for failure to comply with 37 CFR § 41.37(c)(1)(ix) based on the inclusion of certain patents/applications in the Evidence Appendix. The petitioner argues that the inclusion of such evidence is permitted under 37 CFR § 41.37 (c)(1)(ix).

The record shows that:

1) On July 20, 2006, the petitioner filed an appeal brief. On page 1, paragraph 25 of the Appeal Brief, the petitioner referred to "three prior patents and one pending application that were incorporated by reference." These patents and applications were attached in the Evidence Appendix.
2) On Oct. 19, 2006, the examiner issued a Notification of Non-Compliant Appeal Brief for failure to comply with the provisions of 37 CFR §41.37(c)(1)(ix). The examiner cited the inclusion of the three prior patents and the pending application in the evidence appendix as grounds for failure as the inclusion of such evidence is not specifically provided for in 37 CFR § 41.37(c)(1)(ix).

3) On Nov. 3, 2006 the petitioner filed a Response to Notification of Non-Compliant Appeal Brief. The petitioner disagreed with the examiner's interpretation of 37 CFR § 41.37(c)(1)(ix), specifically citing M.P.E.P. 1205.02 to support the inclusion of the contested evidence in the Evidence Appendix. The applicant also submitted an amended appeal brief removing the contested evidence from the Evidence Appendix.

4) On Nov. 3, 2006 the petitioner filed the current petition seeking supervisory review. The petitioner disagreed with the examiner's interpretation of 37 CFR § 41.37(c)(1)(ix), arguing that "the regulation does not state that the Evidence Appendix is limited to the materials cited therein, and that rather, is permissibly open to contain other appropriate material." The petitioner requested that the matter be clarified and also requested that the appeal not be penalized for lost time should the original brief found to be compliant.

Discussion and Analysis

37 CFR § 41.37(c)(1)(ix) states:

The Evidence Appendix section should contain copies of any evidence submitted pursuant to 37 CFR §§ 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner and relied upon by appellant in the appeal, along with a statement setting forth where in the record that evidence was entered in the record by the examiner. Reference to unenetered evidence is not permitted in the brief.

MPEP 1205.02 Appeal Brief Content:

If in his or her brief, appellant relies on some reference, he or she is expected to provide the Board with a copy of it in the evidence appendix of the brief

A review of the entire record of the application reveals that the petitioner and the examiner have arrived at a clear issue with respect to the interpretation of 37 CFR § 41.37(c)(1)(ix). The examiner interpreted the regulation as expressly limiting the types of evidence to be included in the Evidence Appendix to those specifically cited in the statute. The petitioner disagreed with this interpretation, relying on M.P.E.P. 1205.02 to interpret the regulation as "permissibly open to contain other appropriate material."

The contested regulation does in fact explicitly limit the type of evidence that can be incorporated into the Evidence Appendix. Four specific classes of permissible evidence are described in 37 CFR § 41.37(c)(1)(ix), including three different forms of affidavits/declarations as well as evidence entered by the examiner and relied upon by the appellant in the appeal. The regulation then proceeds to state that, "reference to unentered evidence is not permitted in the brief." It is noted that the examiner never entered or approved the new evidence into the record. With this statement, 37 CFR §41.37(c)(1)(ix) expressly excludes the use of any evidence in the brief that was not previously entered by the examiner. By limiting the type of evidence that can be included in an appeal brief, the regulation necessarily limits the type of evidence that is to be included in the Evidence Appendix.

The applicant argues that 37 CFR 41.37(c)(1)(ix) does not limit the Evidence Appendix to the material cited, but is "permissibly open to contain other appropriate material." The applicant

interprets the cited language of M.P.E.P. 1205.02 as permitting the appellant to include evidence beyond that cited in 37 CFR § 41.37(c)(1)(ix), so long as it is also included in the Evidence Appendix. If this language of the M.P.E.P. 1205.02 relied upon by the applicant were to be read in isolation of all other regulations and statutes regarding the Evidence Appendix, the appellant's interpretation may be reasonable. However, this language is not to be read in isolation for it does not constitute the entire body of law regarding the Evidence Appendix. Conversely, it simply provides a reminder to applicants to include a copy of references in the evidence appendix. This section of the M.P.E.P 1205.02 does not define the types of evidence that are to be included in the Evidence Appendix. Moreover, the sentence directly following that relied upon by the applicant in M.P.E.P. 1205.02 refers the reader to 37 CFR § 41.37(c)(1)(ix) for "the specific items required."

Conclusion

For the foregoing reasons, the relief requested by the petitioner will not be granted. 37 CFR § 41.37(c)(1)(ix) expressly limits the type of evidence that can be included in the Evidence Appendix of an appeal brief. The language cited by the petitioner from the M.P.E.P. 1205.02 merely requires that a copy of such allowable evidence be provided in the evidence appendix. Therefore, the petitioner did in fact fail to comply with the requirements of 37 CFR § 41.37(c)(1)(ix). The petitioner's request for patent term adjustment should be evaluated following the applicant's receipt of a Notice of Allowance. The application is being forwarded to Supervisory Patent Examiner of Art Unit 3752 for further processing.

PETITION DISMISSED

Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856 or Marc Jimenez, Training Quality Assurance Specialist, at (571)-272-4530.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

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OFFICE OF PETITIONS

In re Application of :
Van Haurwermeiren et al. :
Application No. 10/147,663 : DECISION ON PETITION
Filed: 16 May, 2002 :
Atty Docket No. CM2236UC :

This is a decision on the petition filed on 17 August, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 23 February, 2005, for failure to timely reply to the final Office action mailed on 22

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

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

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

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

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

November, 2004, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 26 May, 2005.

Petitioner requests the present application be revived for copendency with continuing application No. 11/062,540. A review of Office PALM records reveals that continuing application No. 11/062,540 was filed on 14 July, 2005.

Since this application is revived for purposes of continuity only with Application No. 11/062,540, and since continuity has been established by this decision reviving the application, the application is again abandoned in favor of the above-referenced continuing application.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI OH 45224

COPY MAILED
JUN 0 9 2006
OFFICE OF PETITIONS

In re Application of	:	
Van Haumerwein et al.	:	
Application No. 10/147,663	:	DECISION DISMISSING PETITION
Filed: 16 May, 2002	:	UNDER 37 CFR 1.78(a)(3) and (a)(6)
Attorney Docket No. CM2236MCL	:	

This is a decision on the petition styled under 37 CFR 1.182, which is treated as a petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed on 23 January, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120, 119(e), and 365(c) for the benefit of prior-filed nonprovisional Application No. 09/831,195, filed on 7 May, 2001, international Application No. PCT/US99/27200, filed on 16 November, 1999, and provisional Application No. 60/108,547 filed on 16 November, 1998, as set forth in the amendment filed on 22 September, 2004.

The petitions are **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, 119(e), and 365(c) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional and international applications must be pending at the time of filing of the reference to the prior-filed provisional application(s) as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional and international application(s) claiming the benefit of

the prior-filed provisional application(s) must have been filed within twelve months of the filing date of the prior-filed provisional application(s).

The petition is dismissed because the amendment improperly sets forth that Application No. 09/831,195 is a continuation of International Application No. PCT/US99/27200, since this application is the national stage entry of this PCT application. Accordingly, a proper amendment which references that Application No. 09/831,195 is the national stage entry of international Application No. PCT/US99/27200 must be submitted.

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 Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Frances Hicks
Lead Paralegal
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

AUG 21 2003

#4

HARSHAW RESEARCH INCORPORATED
P.O. BOX 418
OTTAWA, KS 66067

In re Application of	:	
Alan S. Reitz	:	DECISION PETITION
Serial No.: 10/147,666	:	
Filed: May 17, 2002	:	
For: Low-Resistance Exercise and Rehabilitation Chair	:	

This is in response to applicants' petition filed May 17, 2002, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

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

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

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

John E. Kittle
Director,
Technology Center 3700/2900

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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Paper No. 17

DERGOSITS & NOAH
ATTN: MICHAEL E. DERGOSITS
FOUR EMBARCADERO CENTER
SUITE 1450
SAN FRANCISCO, CA 94111

COPY MAILED

AUG 3 0 2004

OFFICE OF PETITIONS

In re Application of :
Benjamin L. Garfinkle et al :
Application No. 10/147,669 : ON PETITION
Filed: July 22, 2002 :
Attorney Docket No. 535.03 :

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 non-final Office action mailed November 10, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 11, 2004.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685.[1]

The application file is being forwarded to Technology Center AU 3611.

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

[1] Effective September 27, 2004, the phone number will 571-272-3220.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

COPY MAILED

AUG 20 2007

OFFICE OF PETITIONS

In re Application of

Spero, et al.

Application No. 10/147,681

Filed: May 16, 2002

Attorney Docket No. 9457-024

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed June 4, 2007[1].

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

This application was held abandoned on December 23, 2006, after it was believed that no response was received to the final Office action mailed September 22, 2006. The notice allowed a shortened statutory period for reply of three (3) months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment was mailed on April 3, 2007, indicating that a reply to the final Office action was not received.

Petitioner states that a Notice of Appeal responsive to the final Office action was filed on March 22, 2007, with a request for an extension of time within the third month. A review of the application file reveals that a Notice of Appeal was filed on March 22, 2007, with a request for an extension of time within the third month. 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 Notice of Appeal, filed March 22, 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.

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

[1] It is noted that a petition under 37 CFR 1.137(b) is filed in the alternative. The petition under 37 CFR 1.137(b) will not be treated because the holding of abandonment is being withdrawn pursuant to 37 CFR 1.181.

The application file is being forwarded Technology Center 1600, GAU 1654 for further processing.

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

CORNING INCORPORATED
SP-TI-3-1
CORNING, NY 14831

COPY MAILED

JUN 17 2005

OFFICE OF PETITIONS

In re Application of :
Joseph F. Schroeder, et al. :
Application No. 10/147,698 : ON PETITION
Filed: May 16, 2002 :
Attorney Docket No. SP02-104 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 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 in a timely manner in reply to the Notice of Allowance mailed September 14, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 15, 2004.

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

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

This application matter is being forwarded to the Publishing Division for further processing.

Retta Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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Forrest Gunnison
GUNNISON, MCKAY & HODGSON, L.L.P
1900 Garden Road
Suite 220
Monterey, CA 93940

MAIL

MAY 1 6 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Joseph M. Thames
Application No. 10/147,714
Filed: May 17, 2002
For: HYPERTEXT PAGE GENERATOR FOR A COMPUTER MEMORY RESIDENT RAPID COPREHENSION DOCUMENT FOR ORIGINAL SOURCE INFORMATION, AND METHOD

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed March 14, 2005.

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

Accordingly, the request is **DENIED**.

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

for

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Forrest Gunnison
GUNNISON, McKAY & HODGSON, L.L.P.
Suite 220
1900 Garden Road
Monterey, CA 93940

MAIL

JUN 2 4 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Joseph M. THAMES, et al.
Application No.: 10/147,714
Filed: May 17, 2002
For: HYPERTEXT PAGE GENERATOR FOR A COMPUTER MEMORY RESIDENT RAPID COMPREHENSION DOCUMENT FOR ORIGINAL SOURCE INFORMATION, AND METHOD

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed May 13, 2005.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

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

FOR

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

cc: Mr. Steve Duckett
Metacyber.Net
3940 Freedom Circle
Santa Clara, CA 95054

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

WHITE & CASE LLP
PATENT DEPARTMENT
1155 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

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NOV 0 8 2002

OFFICE OF PETITIONS

In re Application of :
Kenneth Yip :
Application No. 10/147,718 :
Filed: May 16, 2002 :
Attorney Docket No. 1111779-1053 :

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

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United States Patent and Trademark Office
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Paper No. 9

WOLF GREENFIELD & SACKS, PC
FEDERAL RESERVE PLAZA
600 ATLANTIC AVENUE
BOSTON MA 02210-2211

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MAY 2 6 2004

OFFICE OF PETITIONS

In re Application of :
Suckewer :
Application No. 10/147,724 : ON PETITION
Filed: May 16, 2002 :
Attorney Docket No. P00653.70020.US :

This is a decision on the petition under 37 CFR 1.137(b), filed May 14, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply timely to the nonfinal Office action mailed July 8, 2003, which set a three-month shortened statutory period to respond. No extensions of time were obtained pursuant to 37 CFR 1.136(a). Accordingly, this application became abandoned on October 9, 2003. A Notice of Abandonment was mailed on April 13, 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 in the form of an amendment, paid the petition fee, and made the proper statement of unintentional delay.

The file is being forwarded to Technology Center 3700.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FEB 09 2005

Morgan, Lewis & Bockius, LLP.
3300 Hillview Avenue
Palo Alto, CA 94304

In re Application of		: DECISION ON PETITION
Edward R. Hyde, Jr.		: TO WITHDRAW
Serial No.	: 10/147,731	: HOLDING OF
Filed	: May 16, 2002	: ABANDONMENT
For	: Surgical Hemostate	:

This is a decision on petitioner's request filed June 23, 2004, to review the holding of abandonment mailed June 2, 2004, for failure to respond to the Office action mailed November 21, 2003. There is no fee required for this petition.

In support of the request, petitioner has submitted a copy of a response that included an amendment and a copy of a PTO stamped postcard dated February 20, 2004, as evidence of the timely filing of a response.

In view of the above, the Notice of Abandonment mailed June 2, 2004 is in error and is hereby vacated. The holding of abandonment is withdrawn. Upon the mailing of this decision, the application will be forwarded to the Examiner via the Legal Instruments Examiner for entry and consideration of the response received February 23, 2004.

Summary: Holding of Abandonment Withdrawn.

Esther M. Kepplinger, Director
Technology Center 3700
Phone: (571) 272-2975

ak/02/07/05

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JAN 07 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Art Unit	: 1772	Customer No.: 035811
Examiner	: Christopher P. Bruenjes	
Serial No.	: 10/147,735	
Filed	: June 18, 2003	
Inventor(s)	: Michael G. Fatica	Docket No.: 1238-01
	: Satoshi Horiuchi	
	: Yuji Shimizu	Confirmation No.: 2765
Title	: METALLIZED HIGH BARRIER LAP-SEALABLE LINER FOR SPIRAL WOUND CONTAINERS	
		Dated: January 7, 2005

WITHDRAWAL OF ATTORNEYS OF RECORD

Approved 8/10/05
Jacqueline M. Stone, Director
Technology Center 1700

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

Sir:

We, T. Daniel Christenbury, Reg. No. 31,750 and Paul A. Taufer, Reg. No. 35,703 as attorneys of record, herewith withdraw as attorneys in the above-entitled application.

Respectfully submitted,

Date: 7 JAN 2005

T. Daniel Christenbury
Reg. No. 31,750

Paul A. Taufer
Reg. No. 35,703

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.: 03-06

Paper No:__

IBM CORPORATION
DEPT 917
3605 HIGHWAY 52 NORTH
ROCHESTER NY 55901-7829

COPY MAILED
MAR 30 2006
OFFICE OF PETITIONS

In re Application of	:	
Bates, et al.	:	DECISION
Application No. 10/147,737	:	
Filing Date: 16 May, 2002	:	
Attorney Docket No.: ROC920020059US1	:	

This is a revised decision on the petition filed on 15 February, 2006, requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181.

For the reasons set forth below, the petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Allowance and Fees Due and Notice of Allowability mailed on 12 July, 2005, with reply due under a non-extendable deadline on or before 12 October, 2005;
- the application went abandoned after midnight 12 October, 2005;
- the Office mailed the Notice of Abandonment on 30 November, 2005;
- on 15 February, 2006, Petitioner filed a the instant petition with the allegation that the

Notice of Allowance and Fees Due and Notice of Allowability had been mailed to the incorrect address, and further the record contains a statement that the Notice of Allowance and Fees Due and Notice of Allowability had not been received by Petitioner or Petitioner's client and further that a review of the docket and the file jacket evidences that the Notice of Allowance and Fees Due and Notice of Allowability had not been docketed as they would had they been received and further than they were not in evidence in the file;

- on 29 March, 2006, the Office placed calls to:

  –the firm of Powell Goldstein (Washington, DC), to which the Notice of Allowance and Fees Due and Notice of Allowability had been mailed in July 2005, to inquire of the docket staff (identified as the assistant to the attorney directing the intellectual property section), who indicated that the assignee herein was not a client of that firm;

  –Petitioner herein Gero G. McClellan (Reg. No. 44,227), who indicated that it appeared that the Office had changed the mailing address for the instant matter without the direction of his firm or his client's office, and further that the corrected and updated customer number should no longer be 30206 (the former number for the assignee), but rather 46797, and Mr. McClellan, consistent with the provisions of 37 C.F.R. §1.2,[1] provided the Office via FAX with written instructions to update the mailing address consistent with that number.

It appears that the proper instruction is to direct the Technology Center to remail the Notice of Allowance and Fees Due and Notice of Allowability to the Petitioner at the corrected and updated address which now has been made of record.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the

---

[1] 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.

satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[8]

---

[2] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[4] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[7] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[8] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

It appears that Petitioner has satisfied the requirements of the regulation and the case law as discussed above.

CONCLUSION

Because Petitioner has satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 hereby is **granted**, fees are waived and none have been charged; and the Notice of Abandonment of 30 November, 2005, hereby is **vacated**.

The instant matter is released to Technology Center 2100 with express instructions to remail to Petitioner at the correct address now of record (as above) the Notice of Allowance and Fees Due and Notice of Allowability.

Petitioner is cautioned to review the matter in Private PAIR to ensure that he is aware of the time at which and the address to which the papers in question are remailed by the Office.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

cc:
GERO G. MCCLELLAN
PATTERSON & SHERIDAN LLP
3040 POST OAK BLVD/STE. 1500
HOUSTON, TX 77056

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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NOTICE OF ALLOWANCE AND FEE(S) DUE

051362 7590 07/12/2005

POWELL GOLDSTEIN LLP
INTELLECTUAL PROPERTY GROUP
901 NEW YORK AVENUE, N.W.
THIRD FLOOR
WASHINGTON, DC 20001

EXAMINER	
DAS, CHAMELI	
ART UNIT	**PAPER NUMBER**
2192	

DATE MAILED: 07/12/2005

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/147,737	05/16/2002	Cary Lee Bates	ROC920020059US1	2799

TITLE OF INVENTION: SCOPE-BASED BREAKPOINT SELECTION AND OPERATION

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1400	$300	$1700	10/12/2005

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PTOL-85 (Rev. 07/05) Approved for use through 04/30/2007.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571) 273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

051362 7590 07/12/2005

POWELL GOLDSTEIN LLP
INTELLECTUAL PROPERTY GROUP
901 NEW YORK AVENUE, N.W.
THIRD FLOOR
WASHINGTON, DC 20001

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/147,737	05/16/2002	Cary Lee Bates	ROC920020059US1	2799

TITLE OF INVENTION: SCOPE-BASED BREAKPOINT SELECTION AND OPERATION

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1400	$300	$1700	10/12/2005

EXAMINER	ART UNIT	CLASS-SUBCLASS
DAS, CHAMELI	2192	717-129000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).
- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
- ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list
(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,
(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 _____
2 _____
3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are enclosed:
- ☐ Issue Fee
- ☐ Publication Fee (No small entity discount permitted)
- ☐ Advance Order - # of Copies _____

4b. Payment of Fee(s):
- ☐ A check in the amount of the fee(s) is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)
- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.
- ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

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 to the application identified above.
NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/147,737	05/16/2002	Cary Lee Bates	ROC920020059US1	2799

051362 7590 07/12/2005

POWELL GOLDSTEIN LLP
INTELLECTUAL PROPERTY GROUP
901 NEW YORK AVENUE, N.W.
THIRD FLOOR
WASHINGTON, DC 20001

EXAMINER	
DAS, CHAMELI	

ART UNIT	PAPER NUMBER
2192	

DATE MAILED: 07/12/2005

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)
(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 616 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 616 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (http://pair.uspto.gov).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571) 272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.

PTOL-85 (Rev. 07/05) Approved for use through 04/30/2007.

Notice of Allowability	Application No.	Applicant(s)	
	10/147,737	BATES ET AL.	
	Examiner	Art Unit	
	CHAMELI C. DAS	2192	

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

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to *the amendment filed on 6/27/05*.

2. ☒ The allowed claim(s) is/are *1-34*.

3. ☐ The drawings filed on _____ are accepted by the Examiner.

4. ☐ 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 the:
      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)).
   * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

6. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
   (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
   (b) ☒ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date 20050705.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date *20050705*.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

1. This action is in response to the amendment filed on 6/27/05.

2. Claims 1, 10, 13, 22, 24, and 33 have been amended.

3. Claims 1-34 have been allowed.

EXAMINER'S AMENDMENT

4. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Read, applicant's attorney on 7/5/05.

The application has been amended as follows:

In the Drawing:

FIG. 1. and FIG. 2 should be labeled as -- PRIOR ART--

In the Specification:

On page 5, paragraph [0026] in line 1, [12A-C] should be replaced by 12A-12C

In Claims:

Claim 2 (Currently amended)

In claim 2, line 2, before "purpose", delete [the] and insert a

Claim 3 (Currently amended)

In claim 3, line 2, before "purpose", delete [the] and insert a

Claim 10 (Currently amended)

In claim 10, line 3, before "purpose", delete [the] and insert a

Claim 14 (Currently amended)

In claim 14, line 3, before "purpose", delete [the] and insert a

Claim 15 (Currently amended)

In claim 15, line 3, before "purpose", delete [the] and insert a

Claim 22 (Currently amended)

In claim 22, line 3, before "purpose", delete [the] and insert a

Claim 25 (Currently amended)

In claim 25, line 2, before "purpose", delete [the] and insert a

Claim 26 (Currently amended)

In claim 26, line 2, before "purpose", delete [the] and insert a

Claim 33 (Currently amended)

In claim 33, line 3, before "purpose", delete [the] and insert a

REASON FOR ALLOWANCE

5. The following is an examiner's statement of reason for allowance:

The cited prior art taken alone or in combination fail to teach, in combination with the other claimed limitations, a computer implemented method for selecting a scope; in response to the selection, executing the operation on the plurality of breakpoints within the selected scope, the operation affecting the breakpoints without firing breakpoints

and without executing the code under debug, as recited in the independent claims 1, 13 and 24.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

6. The prior art made or record and not relied upon is considered pertinent to applicant's disclosure.

TITLE: Methods and apparatus for partial and consistent monitoring of object-oriented programs and system, US 6654948 B1

TITLE: Visualization method and system for dynamically displaying operations of a program, US 6226787 B1

TITLE: Method and apparatus for analyzing performance of data processing system, US 6467052 B1

TITLE: Monitoring messages during execution of a message flow, US 6817010 B2

TITLE: Monitoring execution of an hierarchical visual program such as for debugging a message flow, US 6748583 B2

TITLE: Monitoring and Performance measuring Distributed Systems during operation, author: Wybranietz et al, ACM, 1988.

TITLE: Adapting a debugger for optimized programs, author: Shu, ACM SIGPLAN, April 1993.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chameli Das whose telephone number is 571-272-2696.

The examiner can normally be reached on Monday-Friday from 7:00 A.M. to 3:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Tuan Dam can be reached at 571-272-2695. The fax number for this group is (571) 273-8300.

An inquiry of general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 571-272-2100.

Chameli C. Das

CHAMELI C. DAS
PRIMARY EXAMINER

7/5/05

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/147,737	05/16/2002	Cary Lee Bates	ROC920020059US1	2799

51362 7590 11/30/2005

POWELL GOLDSTEIN LLP
INTELLECTUAL PROPERTY GROUP
901 NEW YORK AVENUE, N.W.
THIRD FLOOR
WASHINGTON, DC 20001

EXAMINER	
DAS, CHAMELI	

ART UNIT	PAPER NUMBER
2192	

DATE MAILED: 11/30/2005

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

Notice of Abandonment	Application No.	Applicant(s)	
	10/147,737	Bates	
	Examiner	Art Unit	
	DAS	2192	

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

This application is abandoned in view of:

1. ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on _____.
   (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
   (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) 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).
   (c) ☐ 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 box 7 below).
   (d) ☐ No reply has been received.

2. ☒ 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).
   (a) ☐ 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).
   (b) ☐ The submitted fee of $_____ is insufficient. A balance of $_____ is due.
   The issue fee required by 37 CFR 1.18 is $_____. The publication fee, if required by 37 CFR 1.18(d), is $_____.
   (c) ☒ The issue fee and publication fee, if applicable, has not been received.

3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
   (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
   (b) ☐ No corrected drawings have been received.

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

5. ☐ 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 the filing of a continuing application.

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

7. ☐ The reason(s) below:

slk

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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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IBM CORPORATION, INTELLECTUAL PROPERTY LAW
DEPT 917, BLDG. 006-1
3605 HIGHWAY 52 NORTH
ROCHESTER MN 55901-7829

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JAN 1 0 2007

OFFICE OF PETITIONS

In re Application of	:	
Bates et al.	:	
Application No. 10/147,737	:	ON PETITION
Filed: May 16, 2002	:	
Attorney Docket No. ROC920020059US1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 6, 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 Drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NEW YORK 10036-8403

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SEP 24 2004

OFFICE OF PETITIONS

In re Application of :
Ikuo Mizobata et al :
Application No. 10/147,742 : DECISION GRANTING PETITION
Filed: May 16, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. P/2630-11 :

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

The petition is **GRANTED**.

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

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

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

This matter is being referred to Technology Center AU 1746 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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DIW 09-02

Paper No. 5

LAW OFFICES OF MARK A. GARZIA, P.C.
P.O. BOX 288
MEDIA PA 19063

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SEP 09 2002

OFFICE OF PETITIONS

In re Application of :
Daniel P. Topp :
Application No. 10/147,745 : ON PETITION
Filed: 16 May, 2002 :
Attorney Docket No. TOPP-P5.1-US :

This is a decision on the petition captioned under 37 CFR 1.182, filed on 23 August, 2002, requesting that the above-identified application be accorded a filing date of 16 May, 2002, with Figures 13A and 13B of the specification as a part of the original disclosure.

The petition is **dismissed**.

On 16 May, 2002, the application was filed.

On 24 June, 2002, the Office of Initial Patent Examination (OIPE) mailed a Notice of Omitted Items in a Nonprovisional Application stating that the application had been accorded a filing date of 16 May, 2002, but that Figures 13A and 13B described in the specification appeared to have been omitted from the application.

In response, on 23 August, 2002, the present petition was filed. Petitioners concede that Figures 13A and 13B were not included in the application papers filed in the USPTO on 16 May, 2002, but request that the application, including Figures 13A and 13B, be accorded a filing date of 16 May, 2002, because Figures 13A and 13B are identical to Figures 13A and 13B in prior provisional Application No. 60/291,407 to which the present application claims priority.

The evidence is not persuasive. The record does not show that the drawing Figures were received at the USPTO on 16 May, 2002. It is noted that the USPTO has a long-established and well publicized practice for *prima facie* establishing the date of receipt of correspondence that has either been mailed or otherwise delivered to the PTO, and is asserted to have been

subsequently misplaced: the itemized postcard receipt practice of MPEP 503.[1] This practice requires that any paper(s) for which a receipt is desired be filed in the USPTO with a self-addressed postcard identifying the paper(s). A postcard receipt which itemizes and properly identifies the paper(s) which is being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. However, due to the absence in the record of a postcard receipt itemized with respect to the drawings that bears a USPTO date stamp of 16 May, 2002, showing that a sheet of drawings containing Figures 13A and 13B was received in the USPTO on 16 May, 2002, the application cannot be accorded a filing date of 16 May, 2002, with Figures 13A and 13B as a part of the original disclosure.

Petitioners argue that Figures 13A and 13B submitted on 23 August, 2002, are substantially similar to Figures 13A and 13B of the drawings filed with prior provisional Application No. 60/291,407,[2] filed on 16 May, 2001, the priority case for the instant application; however, the mere fact that the figures in the priority application may resemble the figures submitted on 16 May, 2001, is insufficient to accord a 16 May, 2002, filing date for the figures submitted 23 August, 2002. The mere reference to another application is not an incorporation of anything therein into the application containing such reference.[3]

In view of the above, the petition is **dismissed.**

This application has already been processed without the drawing filed on 23 August, 2002. The one (1) sheet of drawings containing Figures 10-12, 13A, and 13B filed on 23 August, 2002, will not be used for examination purposes, but will be retained in the application file.

Of course, petitioner may submit Figures 13A and 13B in the form

---

[1] The public was afforded a "reminder" of the then extent post card receipt practice at 857 *Off. Gaz. Pat. Off.* 667 (*O.G.*) (Nov. 21, 1968). This specific notice is usually repeated annually, in a January "Consolidated Listing" section of the *O.G.* that contains important *O.G.* notices of continuing relevance.

[2] In support, petitioners included a copy of one (1) sheet of drawings from provisional Application No. 60/291,407 containing Figures 13A and 13B.

[3] In re Seversky, 177 USPQ 144, 146 (C.C.P.A. 1973) and Dart Industries, Inc. v. Banner, 207 USPQ 273, 276 (D.C. Cir. 1980).

of a preliminary amendment. If Figures 13A and 13B are submitted as a preliminary amendment, the preliminary amendment will be reviewed by the examiner for new matter.
As the petition resulted from applicant's filing error and not as a result of an error on the part of the Office, a petition fee of $130.00 is due and will be charged to counsel's deposit account, No. 16-1150.

Any request for reconsideration of this petition must be submitted within **two months** of the mailing date of this decision in order to be considered timely. See 37 CFR 1.181(f). Extensions of time under 37 CFR 1.136(a) are not permissible.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 16 May, 2002, using the application papers filed on that date.

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
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INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
CINCINNATI, OH 45224

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OFFICE OF PETITIONS

In re Application of :
Jean-Francois Bodet et al :
Application No. 10/147,768 : ON PETITION
Filed: May 16, 2002 :
Attorney Docket No. CM2235US :

This is a decision on the petition under 37 CFR 1.137(b), filed August 17, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed November 22, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 23, 2005.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of a continuing application No. 11/062,929.

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

This matter is being referred to Files Repository.

Wan Laymon
Petitions Examiner
Office of Petitions

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WINTON HILL BUSINESS CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

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OFFICE OF PETITIONS

In re Application of	:	
Bodet et al.	:	
Application No. 10/147,768	:	
Filed: May 16, 2002	:	ON PETITION
Attorney Docket No.	:	
CM2235UC	:	

This is a decision on the Petition Under 37 CFR 1.182 for "Addition of a Priority Claim," filed January 23, 2006, which is being treated as a petition to accept an unintentionally delayed claim under 35 U.S.C. §§ 120, 365(c) and 119(e) for the benefit of prior filed nonprovisional Application No. 09/831,195, filed May 7, 2001, now U.S. Patent No. 6,624,133, issued September 23, 2003; international Application No. PCT/US99/27200, filed November 19, 1999; and provisional Application No. 60/108,547, filed November 16, 1998.

The petition under 37 CFR 1.182 is **DISMISSED**

The filing of a petition under 37 CFR 1.182 to accept a delayed claim for benefit of priority to a prior-filed application is only applicable to an abandoned application filed prior to November 29, 2000. In an application filed on or after November 29, 2000, the proper avenue of relief for accepting a late claim for benefit of priority to a prior-filed application is by way of a petition under 37 CFR 1.78(a)(3) (for nonprovisional and international applications) and under 37 CFR 1.78(a)(6) (for provisional applications). *See also* MPEP 1481. 03. Accordingly, the petition under 37 CFR 1.182 must be dismissed as inappropriate.

Further, 37 CFR § 1.78(a)(6) provides that "the claim under 35 U.S.C. 119(e) for the benefit of a prior filed provisional application may be accepted during the pendency of the later-filed application if the reference identifying the prior-filed application by provisional application number was unintentionally delayed." (Emphasis supplied.) Therefore, as petitioner herein is seeking to add a claim for priority to a provisional application; namely, Application No. 60/108,547, this application must first be revived before any petition under 37 CFR 1.78(a)(6) can be entertained.

be included as an amendment to the first line of the specification on a separate sheet of paper or in an Application Data Sheet in accordance with 37 CFR 1.76(b)(5).

The petition must also include a statement that "the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional."

Finally, the fee for a petition to accept an unintentionally delayed claim for priority is $1370.00. Office records indicate that Applicant submitted $130.00[1] for the petition under 37 CFR 1.182, and also included an authorization to charge additional fees to Applicant's deposit account. As such, Applicant's deposit account was charged $1370.00, in addition to the $130.00 petition fee submitted with the petition. A refund of the $130.00 petition fee has been credited to Applicant's deposit account, 16-2480, as authorized in the Fee Transmittal filed with the instant petition.

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

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

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

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

Any questions concerning this matter may be directed to Attorney Derek L. Woods at (571) 272-3232.

Frances Hicks
Lead Paralegal
Office of Petitions

[1] Applicant is advised that the fee for a petition under 37 CFR 1.182 has increased to $400.00 effective December 8, 2004.

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P.O. Box 1450
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RANDALL J. BLUESTONE
IBM CORPORATION
INTELLECTUAL PROPERTY LAW
5600 COTTLE ROAD (L2PA/0142)
SAN JOSE, CA 95193

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AUG 1 2 2004

OFFICE OF PETITIONS

In re Application of :
Robert M. Silverman :
Application No. 10/147,769 : ON PETITION
Filed: May 16, 2002 :
Attorney Docket No. SJO920010180US1 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 24, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue/publication fee in a timely manner in reply to the Notice of Allowance mailed April 20, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on July 21, 2004.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

This matter is being referred to Publishing Division.

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

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

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OFFICE OF PETITIONS

In re Application of	:	
Richard S. Ginn et al	:	
Application No. 10/147,774	:	DECISION GRANTING PETITION
Filed: May 17, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 16497.8.3.1	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 21, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 5, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3734 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy
Petitions Examiner
Office of Petitions

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

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TIMOTHY P. O'HAGAN
8710 KILKENNY CT
FORT MYERS FL 33912

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OFFICE OF PETITIONS

In re Application of :
MEYERSON, et al. :
Application No. 10/147,785 : DECISION ON PETITION
Filed: May 16, 2002 : TO WITHDRAW
Attorney Docket No. TEL-015 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 6, 2006 and re-submitted September 16, 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 Timothy P. O'Hagan, the sole attorney of record. Timothy P. O'Hagan has been withdrawn as attorney or agent of record. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed May 4, 2006 that requires a reply from the applicant. Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ROBERT F. MEYERSON**
2180 IMMOKALEE ROAD, SUITE 311
NAPLES, FL 34110

cc: **ADAM MEYERSON**
TELANTIS RESEARCH
791 WYE RAOD
AKRON, OH 44333

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Office of Patent Publication

FAEGRE & BENSON LLP
PATENT DOCKETING
2200 WELLS FARGO CENTER
MINNEAPOLIS, MN 55402

In re Application of
FREIDELL, JAMES E.
Application No. 10/147,802
Filed: May 17, 2002
Attorney Docket No. 56630-247064

DECISION ON PETITION

This is a decision on the Petition To Withdraw Holding Of Abandonment Pursuant To 37 C.F.R. § 1.181(a), received in the United States Patent and Trademark Office (USPTO) on May 12, 2006.

The petition is **DISMISSED.** Any request for reconsideration of this decision, or as explained below, filing a petition seeking revival under 37 CFR § 1.137, must be filed within TWO MONTHS (2) from the mail date of this decision.

The patent application was held abandoned for failure to timely pay the issue fee within the statutory period of three months, as required in the Notice of Allowance and Fee(s) Due, mailed November 15, 2005. The Notice of Abandonment was mailed April 21, 2006.

Petition states that on April 6, 2006 they responded to the Supplemental Notice of Allowability mailed by the USPTO on January 6, 2006 within the three-month statutory time period.

Unfortunately, the Supplemental Notice of Allowability did not extend or restart the time period to pay the required fees indicated on the Notice of Allowance and Fee(s) Due.

The Supplemental Notices of Allowability mailed on January 6, 2006, which noted in part ..."If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course."

The Notice of Allowance and Fee(s) Due **previously mailed** on November 15, 2005 indicated that the required Issue Fee and Publication Fee were due on February 15, 2006. Therefore, the applicant was required to respond by returning the Fee(s) Transmittal, Form PTOL-85B by the due date indicated thereon and with payment of the required fees. The Office acknowledges untimely receipt of the Fee(s) Transmittal on April 6, 2006.

The holding of abandonment will not be withdrawn as this time.

Petitioner may file a petition for Revival of Abandoned Application or Lapsed Patent under 37 CFR § 1.137.

- Under 37 CFR 1.137(a), a petition for the revival of an ***unavoidable*** abandoned
- Under 37 CFR 1.137(b), a petition for the revival of an ***unintentionally*** abandoned

Further correspondence with respect to the petition for revival under 37 CFR 1.137 should be directed to the Office Of Petition at 571-272-3282 or addressed as follows:

By mail:
Office of Petitions
Commissioner for Patents
P O Box 1450
Mail Stop Petitions
Alexandria, VA 22313-1450

Telephone inquires concerning this decision may be directed to the undersigned at 703-308-9250 Ext. 137.

Thomas E. Hawkins
Paralegal Specialist
Office of the Director
Office of Patent Publications

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Commissioner for Patents
United States Patent and Trademark Office
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FAEGRE & BENSON LLP
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2200 WELLS FARGO CENTER
90 SOUTH SEVENTH STREET
MINNEAPOLIS MN 55402-3901

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OFFICE OF PETITIONS

In re Application of :
Freidell :
Application No. 10/147,802 : ON PETITION
Filed: May 17, 2002 :
Attorney Docket No. 56630-247064 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 28, 2006, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue fee and publication fee within three (3) months of the mailing of the Notice of Allowance and Fee(s) Due, mailed November 15, 2005. Accordingly, this application became abandoned on February 16, 2006. A Notice of Abandonment was mailed on April 21, 2006.

Applicant has submitted a proper reply in the form of the issue fee, the publication fee and a completed PTOL-85, an acceptable statement of the unintentional nature of the delay in responding to the November 15, 2005 Notice of Allowance and Fee(s) Due, and the petition fee.

The petition is **granted**.

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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OSHA LIANG L.L.P./SUN
1221 MCKINNEY, SUITE 2800
HOUSTON TX 77010

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OFFICE OF PETITIONS

In re Application of	:	
GAUTHIER et al.	:	DECISION ON APPLICATION
Application No. 10/147,838	:	FOR PATENT TERM ADJUSTMENT
Filed: 17 May, 2002	:	
Atty. Dkt. No.: 03226.214001; P7849	:	

This letter is in response to the "REQUEST FOR REINSTATEMENT OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705", filed on 7 September, 2006. Applicants request the reinstatement of 26 days of patent term, such that the initial determination of patent term adjustment under 35 U.S.C. § 154(b) would be corrected from nine hundred twenty (920) days to nine hundred forty-six (946) days.

The application for patent term adjustment is GRANTED.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is nine hundred forty-six (946) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On 24 August, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. §154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is nine hundred twenty (920) days.

The Office initially determined a patent term adjustment of nine hundred twenty (920) days based on an adjustment for PTO delay of nine hundred forty-six (946) days, pursuant to 35 U.S.C.

154(b)(1)(A)(i) and 37 C.F.R. §1.703(a)(1), reduced by twenty-six (26) days of applicant delay pursuant to 37 C.F.R. §1.704(b).

A review of the record reveals that the Office action mailed on 17 February, 2006, was remailed on 28 March, 2006. As such, under the circumstances of this case, applicant should not be assessed the twenty-six (26) days of applicant delay.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is nine hundred forty-six (946) days (946 days of PTO delay, reduced by 0 days of Applicant delay).

The $200.00 application fee under 37 C.F.R. §1.705(b) is required and will be charged to counsel's deposit account as authorized in the petition.

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

Telephone inquiries specific to this letter should be directed to Senior Petitions Attorney Douglas I. Wood, at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of adjusted PAIR calculation

PTA Calculations for Application: 10/147838			
Application Filing Date:	05/17/2002	PTO Delay (PTO):	946
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	26
Post-Issue Petitions:	0	Total PTA (days):	946
PTO Delay Adjustment:	26		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
42	06/14/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	26		
35	08/24/2006	MAIL NOTICE OF ALLOWANCE			
34	08/24/2006	MAIL EXAMINER'S AMENDMENT			
33	08/22/2006	ISSUE REVISION COMPLETED			
32	08/22/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
31	08/21/2006	EXAMINER'S AMENDMENT COMMUNICATION			
30	08/10/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
29	08/21/2006	NOTICE OF ALLOWABILITY			
28	06/17/2006	DATE FORWARDED TO EXAMINER			
27	06/12/2006	RESPONSE AFTER NON-FINAL ACTION		26	16
26	03/28/2006	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
25	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
24	03/08/2006	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
23	02/23/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
22	03/06/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
21	03/06/2006	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
20	03/06/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
19	02/23/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
18	03/03/2006	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			

17	02/23/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
16	02/17/2006	MAIL NON-FINAL REJECTION	946		-1
15	02/16/2006	NON-FINAL REJECTION			
14	05/17/2002	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
13	01/20/2006	CASE DOCKETED TO EXAMINER IN GAU			
12	01/18/2006	CASE DOCKETED TO EXAMINER IN GAU			
11	06/20/2005	CASE DOCKETED TO EXAMINER IN GAU			
10	08/27/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
9	08/27/2003	CASE DOCKETED TO EXAMINER IN GAU			
8	02/10/2003	CASE DOCKETED TO EXAMINER IN GAU			
7	08/26/2002	MISCELLANEOUS INCOMING LETTER			
6	07/11/2002	CASE DOCKETED TO EXAMINER IN GAU			
5	05/17/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
4	06/26/2002	APPLICATION DISPATCHED FROM OIPE			
3	06/20/2002	APPLICATION IS NOW COMPLETE			
2	05/30/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	05/17/2002	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Paper No.

Forrest Gunnison
GUNNISON, MCKAY & H ODGSON, L.L.P.
1900 Garden Road, Suite 220
Monterey, CA 93940

MAILED

APR 2 6 2005

Technology Center 2100

In re Application of:
Joseph M. Thames
Application No. 10/147,848
Filed: May 17, 2002
For: COMPUTER-BASED USER INTERFACE FOR A MEMORY RESIDENT RAPID COMPREHENSION DOCUMENT FOR ORIGINAL SOURCE INFORMATION

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed March 11, 2005.

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

There is no indication that Applicant has been notified of the request for withdrawal.

Accordingly, the request is **DENIED**.

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

James R. Matthews

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

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Paper No.

Forrest Gunnison
GUNNISON, MCKAY & H ODGSON, L.L.P.
Suite 220
1900 Garden Road
Monterey, CA 93940

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JUN 2 5 2005

Technology Center 2100

In re Application of:
Joseph M. Thames
Application No. 10/147,848
Filed: May 17, 2002
For: A COMPUTER-BASED USER INTERFACE FOR A MEMORY-RESIDENT RAPID COMPREHENSION DOCUMENT FOR ORIGINAL SOURCE INFORMATION

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed May 13, 2005.

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

The request filed May 13, 2005 meets all the requirements. Accordingly the request is **GRANTED**.

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

James R. Matthews

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

cc: Mr. Steve Duckett
President
METACYBER.NET
5940 Freedom Circle
Santa Clara, CA 95054

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
Suite 600
1100 New York Avenue, N.W.
Washington DC 20005-3934

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OCT 0 2 2006

OFFICE OF PETITIONS

Applicant: Adolf et al.
Appl. No.: 10/147,849
Filing Date: May 20, 2002
U.S. Patent No.: 6,972,324
Issue Date: December 6, 2005
Title: ANTIBODIES SPECIFIC FOR CD44V6
Attorney Docket No.: 0652.2530002/RWE/FRC
Pub. No.: US 2003/0190319 A1
Pub. Date: October 9, 2003

This is in response to the "Request for Corrected or Revised Patent Application Publication under 37 CFR 1.221(b)," which was received on January 24, 2005, for the above-identified application.

The request is DISMISSED as moot.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1]

Since the application has already issued as U.S. Patent No. 6,972,324 on December 6, 2005, the request is deemed moot.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

[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).

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Steven W. Weinrieb
SCHWARTZ & WEINRIEB
2001 Jefferson Davis Highway
Crystal Plaza One, Suite 1109
Arlington VA 22202

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OFFICE OF PETITIONS

In re Application of	:	
Zielinski et al.	:	DECISION ON
Application No.: 10/147,894	:	
Filing Date: May 20, 2002	:	PETITION UNDER
Docket No.: 71-793-1	:	
For: Air Bag Inflation/Deflation System	:	37 CFR 1.137(b)

This is a decision on Petition Under 37 CFR 1.137(b), filed on June 14, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper reply to the final Office action mailed December 14, 2004, which set a shortened statutory period for reply of three (3) months. The application went abandoned at midnight on June 14, 2005. A Notice of Abandonment was mailed on August 5, 2005.

Petitioner has met the requirements for revival under §1.137(b). Petitioner submitted the required reply in the form of a Request for Continued Examination (and fee), paid the petition fee, and made a statement that "the delay for filing an appropriate response in connection with the outstanding Office Action dated December 14, 2004 was unintentional." This is being construed as a statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement in the petition is not correct. Said statement is being accepted in satisfaction of 37 CFR 1.137(b)(3). Since this utility application was filed after June 8, 1995, no terminal disclaimer is required. Accordingly, the petition is granted under §1.137(b).

This application is being referred to Technology Center 3753 for continued processing.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
on behalf of
Office of Petitions
Telephone: 571-272-3283
Facsimile: 571-273-0459

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STEVEN W. WEINRIEB
LAW OFFICE OF STEVEN WEINRIEB
8717 COLD SPRING ROAD
POTOMAC, MD 20854

MAILED

FEB 18 2009

OFFICE OF PETITIONS

In re Application of :
James S. Zielinski, et al. :
Application No. 10/147,894 : ON PETITION
Filed: May 20, 2002 :
Attorney Docket No. 71-793-1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 22, 2008, to revive the above-identified application.

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 February 1, 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 April 2, 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 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) 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.

In view of the above, the petition is **GRANTED**.

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

This application is being referred to Technology Center AU 3753 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Steven W. Weinrieb
LAW OFFICE OF STEVEN WEINRIEB
8717 COLD SPRING ROAD
POTOMAC, MD 20854

Mail Date: 04/26/2010

Applicant	: James S. Zielinski	: DECISION ON REQUEST FOR
Patent Number	: 7610929	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/147,894	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/20/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **621** 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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ROBERT DEBERARDINE
ABBOTT LABORATORIES
100 ABBOTT PARK RD
DEPT 377/AP6A
ABBOT PARK IL 60064-6008

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OFFICE OF PETITIONS

In re Application of	:	
Heaton, et al.	:	
Application No. 10/147,904	:	ON PETITION
Filed: May 20, 2002	:	
Attorney Docket No. 6947.US.D1	:	

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

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

The above-identified application became abandoned for failure to timely file a response to the non-final Office action mailed March 24, 2005. This Office action set a shortened statutory period for reply of one month. No extensions of time under 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 25, 2005. A Notice of Abandonment was mailed on October 19, 2005.

With the instant petition, petitioner paid the petition fee, filed a reply in the form of a response to restriction requirement, and made the proper statement of unintentional delay.

The matter is being forwarded to Group Art Unit 1617 for consideration of the response to restriction requirement, filed October 27, 2005.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Edvardsson, et al. :
Application No. 10/147,908 : DECISION ON PETITION
Filed: May 20, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 3764-122 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 17, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application and PCT application set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

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

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

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

A reference to add the above-noted, prior-filed applications on page one following the first

sentence of the specification has been included in an amendment filed September 23, 2003. However, the amendment is not acceptable as drafted since it improperly incorporates by reference application no. 09/424,770 and it fails to specify the relationship between application no. 09/424,770 and PCT/SE99/01514.

On the issue of incorporation by reference, petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06©). Application no. 09/424,770 was not explicitly referenced in this application until September 23, 2003, which is well after this application's May 20, 2002 filing date.

Accordingly, a substitute amendment[1] deleting the incorporation by reference statement with respect to application no. 09/424,770 is required.

In addition, 37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional or international 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. 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),

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[1] *Note* 37 CFR 1.121

Section 201.11, Reference to First Application. The amendment filed September 23, 2003 fails to state the relationship of Application No. PCT/SE99/01514, filed September 2, 1999, to application no. 09/424,770, filed November 30, 1999.

Where a nonprovisional application is claiming the benefit under 35 USC 120 of a prior national stage application under 35 USC 371, a suitable reference would read "This application is .....a continuation of U.S. Application No. 09/, 424,770, filed November 30, 1999, which was the National Stage of International Application No. PCT/SE99/01514, filed September 2, 1999.

Accordingly, a substitute amendment specifying the relationships among the prior-filed applications and the instant application is required.

In summary, before a petition under 37 CFR § 1.78(a)(3) can be granted , a renewed petition under 37 CFR 1.78(a)(3) and a substitute amendment (1) specifying the relationships among the prior-filed applications and the instant application and (2) deleting the incorporation by reference statement with respect to application no. 09/424,770 must be submitted.

Regarding finances, petitioner has submitted a check for $130.00 towards payment of the petition fee. Petitioner is informed that the petition fee for filing a petition for acceptance of an unintentionally delayed claim for priority as required by 37 CFR 1.78(a)(3)(ii) is currently $1,330.00. As authorized, the balance due, or $ $1,200.00 will be charged to petitioner's Deposit Account No. 14-1140.

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:

2011 South Clark Place
Crystal Plaza Two Lobby
Room 1B03
Arlington, VA 22202

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

Telephone inquiries concerning this decision should be directed to Senior Petitions Attorney E. Shirene Willis at (703) 308-6712.

Brian Hearn, for

Charles Pearson
Director, Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

In re Application of :
Edvardsson, et al. :
Application No. 10/147,908 : DECISION ON PETITION
Filed: May 20, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 3764-122 :

This is a decision on the reconsideration petition under 37 CFR 1.78(a)(3), filed November 1, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to nonprovisional application no. 09/424,770 and under 35 U.S.C. §§120 and 365 for the benefit of priority to PCT application no. PCT/SE99/01514.

The petition is **GRANTED**.

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on May 20, 2002, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional and PCT applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

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

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

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

Any inquiries concerning this decision may be directed to Petitions Attorney E. Shirene Willis at (571) 272-3230.

This application is being forwarded to the examiner of Technology Center Art Unit 1654 for appropriate action on the amendment filed November 1, 2004, including consideration of applicants' entitlement to claim benefit of priority under 35 U.S.C. §120 to prior filed application no. 09/424,770, filed November 30, 1999, and under U.S.C. §§ 120 and 365(c) to prior-filed PCT Application No. PCT/SE99/01514, filed September 2, 1999.

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

ATTACHMENT: Corrected Filing Receipt

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SAN FRANCISCO CA 94111-3834

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OFFICE OF PETITIONS

In re Application of :
CALLAHAN et al. :
Application No.: 10/147,920 : DECISION ON PETITION
Filing Date: May 20, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No.: 544612000200 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 19, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed March 8, 2005, which set a shortened statutory period for reply of three (3) months. An extension of time of three months under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, by operation of law, the above-identified application became abandoned on September 8, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Notice of Appeal; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action mailed March 8, 2005 is accepted as having been unintentionally delayed.

This application is being referred to Technology Center AU 1648 for appropriate action, if any, on the reply in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3301.

Daniel Stemmer
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

In re Application of :
Johnny D. Callahan, et al. :
Application No. 10/147,920 :
Filed: May 20, 2002 :
Attorney Docket No. 022052-001010US :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed June 4, 2007.

The request is **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, At the request of the client, AviaraDx Corporation, does not meet any of the conditions set forth in 37 CFR 10.40.

It is also brought to the petitioner's attention that the power of attorney acceptance letter mailed on January 19, 2007 was sent in error. There was never a power of attorney filed in this application. A further review of the record shows that AviaraDx Corporation does not hold an assignment in this application.

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.

April M. Wise
Petitions Examiner
Office of Petitions

cc: PATENTIQUE, PLLC
PO BOX 5803
BELLEVUE, WA 98006

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SUITE 300
WASHINGTON DC 20006

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AUG 2 4 2004

OFFICE OF PETITIONS

In re Patent No. 6,759,424	:	
Issue Date: 6 July, 2004	:	
Application No. 10/147,921	:	ON PETITION
Filed: 20 May, 2002	:	
Attorney's Docket No. 38005-0160	:	

This is a decision on the petition, filed on 3 August, 2004, requesting the issuance of a duplicate Letters Patent for the above-identified application.

The petition is **GRANTED**.

Since it is U.S. Patent and Trademark Office practice to assure mailing of all papers on the date indicated, there is a strong presumption that papers duly addressed and indicated as mailed, such as the Letters Patent in this application, are timely delivered to the addressee. To overcome this presumption, a verified statement with supporting evidence, such as any records which would disclose the receipt of other correspondence mailed from the U.S. Patent and Trademark Office on or about 6 July, 2004, but fail to disclose receipt of the Letters Patent mailed on that date, should be promptly submitted. Further, copies of records on which receipt of the Letters Patent would have been entered had it been received are required.

However, if the loss of the Letters Patent was not the fault of the U.S. Patent and Trademark Office or if petitioner simply wishes to avoid overcoming the above-noted presumption, a petition may be filed under 37 CFR 1.182 accompanied by a petition fee of $130.00 requesting a duplicate Letters Patent. Upon receipt of the petition and petition fee, the request for a duplicate Letters Patent will be granted.

Although petitioners' counsel states that the original Letters

Patent has not been received, petitioners have not provided any supporting documentation showing that the original Letters Patent was not received.

Nevertheless, as petitioners have submitted the petition fee of $130.00, the petition is granted.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent. The file is being forwarded to the Files Repository since it is not necessary for issuance of a duplicate Letters Patent.

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

Douglas I. Wood
Petitions Attorney
Office of Petitions

cc: Krystal Paige, Crystal Park 3-920 (FAX 703-746-4642)

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OFFICE OF PETITIONS

In re Application of :
Deleersnijder :
Application No. 10/147,928 : ON PETITION
Filed: 20 May, 2002 :
Attorney Docket No. 2302/51109 :

This is a decision on the petition filed on 26 June, 2002, as a "Petition to Accord Filing Date Under 37 C.F.R. §1.53(e)," and thus treated as a petition requesting that the application be deemed to contain by reference certain unspecified drawings,[1] and so accord a filing date of 20 May, 2002, for the application, and/or otherwise that the above-identified application be amended to include the said unspecified drawings.

For the reasons set forth below, the petition is **DISMISSED**.

This application was deposited on 20 May, 2002. However, on 10 June, 2002, the Office mailed a "Notice of Incomplete Nonprovisional Application (Filed Under 37 C.F.R. §1.53(b)" in this nonprovisional application, stating that the application had not been accorded a filing date, and advising applicants that the application was deposited without drawings as required under 35 U.S.C. §113 (first sentence).

Petitioner responds with the instant petition (accompanied by a request and fee for a two- (2-) month extension of time) stating that:

- "the application is a continuation of published international patent application no PCT/EP00/11532 designating the United States of America . . . [t]he entire disclosure of PCT/EP00/11532 has been incorporated by reference in the present application"; and

- therefore, the application satisfies the requirements of 37 C.F.R. §1.53 and should be accorded a filing date.

[1] Drawings identified as Figures 1 - 10 were filed with the Preliminary Amendment accompanying the petition, however, these are not identified in the petition as the figures from the parent incorporated by reference.

The mailing of a "Notice to file Corrected Application Paper (Filing Date Granted)" permits the applicant either:

> (1) to establish promptly 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 C.F.R. §1.63 and 1.64 referring to such drawing(s) and a petition under 37 C.F.R. §1.182 (with the petition fee under 37 C.F.R. §1.17(h)) requesting the later filing date within two months of the date of the "Notice to file Corrected Application Paper (Filing Date Granted)" (See: 37 C.F.R. §1.181(f)).

In this case, Petitioners neither assert that the missing drawings were deposited on 20 May, 2002, nor request that the missing figures be accorded as a filing date the date on which the figures the figures were submitted with the Preliminary Amendment accompanying the 26 June, 2002, petition.

Rather, Petitioners as Applicants seek to amend the application to include the unspecified figures with the specification. However, no petition under 37 C.F.R. §1.182 is necessary for that purpose.

Amendments to the specification may be entered by the primary examiner without petition so long as the amendment contains no new matter.[2]

Accordingly, the petition is inappropriate and subject to dismissal.

As the 26 June, 2002, petition was not due to an error on the part of the Office, the petition fee submitted with it will not be refunded.

It is noted that the application transmittal letter identified this application as a continuation of prior application No. PCT/EP00/11532 and specifically incorporated by reference the disclosure

---

[2] See: 37 C.F.R. 1.121(b).

of the prior application.[3] Obviously, in view of the incorporation by reference of the prior application, the unspecified figures are not new matter if they were a part of the disclosure of the prior application.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of 20 May, 2002, using the application papers filed on that date.

Thereafter, the application will be forwarded to the appropriate group art unit for consideration by the Examiner of the petition filed 26 June 2002, as an amendment requesting the entry of the unspecified figures[4] with the specification as new drawings with the specification.

Telephone inquiries concerning this decision may be directed to the undersigned at (703)305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[3] MPEP §201.06© provides 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)

[4] See: Fn. 1, above.

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NANOSTREAM, INC.
580 SIERRA MADRE VILLA AVE.
PASADENA CA 91107-2928

In re Application of :
Stephen D. O'Connor et al :
Application No. 10/147,948 : DECISION GRANTING PETITION
Filed: May 16, 2002 : UNDER 37 CFR 137(b)
Attorney Docket No. 273/218 :

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

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of January 20, 2004,is accepted as having been unintentionally delayed.

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

The application file is being referred to Technology Center AU 2856.

Karen Creasy

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

23 SEP 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

#6

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Karen B. Dow
Morrison & Foerster LLP
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Suite 500
San Diego, CA 92130-2332

#6

In re Application of	
HE, Xiao Yan, et al.	
Application No.: 10/148,010	DECISION ON
PCT No.: PCT/AU00/01441	
Int. Filing Date: 24 November 2000	PETITION UNDER
Priority Date: 26 November 1999	
Attorney Docket No.: 229752002000	37 CFR 1.47(a)
For: METHOD OF INDUCING IMMUNE TOLERANCE	

This is a decision on applicants' "Petition Under 37 C.F.R. §1.47(a) to File on Behalf of Inventor Who Refuses to Execute Application," filed in the United States Patent and Trademark Office (USPTO) on 10 March 2003.

BACKGROUND

On 24 November 2000, applicants filed international application PCT/AU00/01441, claiming a priority date of 26 November 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 24 May 2001, within nineteen months from the priority date. A copy of the international application was transmitted to the Office on 31 May 2001 by the International Bureau. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 28 May 2002 (26 May 2002 was a Sunday and 27 May 2002 was a holiday).

On 24 May 2002, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 06 August 2002, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 10 March 2003, applicants submitted the instant petition under 37 CFR 1.47(a), which was accompanied by, *inter alia*, a declaration, a petition for a five month extension of time, the fee for a five month extension of time and a certification of first class mailing indicating the submission was deposited on 05 March 2003.

DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign after being presented with the application papers or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the nonsigning applicant

Items (1), (3) and (4) have been met. (1) The petition fee of $130 has been paid. (3) The petition lists the last known address of non-signing inventor Xiao Yan He as 93 Bellinger Road, Ruse, New South Wales, 2560, Australia. (4) The declaration complies with 37 CFR 1.497(a)-(b) and 37 CFR 1.47.

Item (2) has not been satisfied. The petition must supply proof that applicant refused to sign after being presented with the application papers (specification, including claims, drawings, and oath or declaration). MPEP §409.03(d). Applicants did not send the application materials and the declaration to the non-signing inventor. Documentary evidence of the presentation with a full copy of the application papers and subsequent refusal must be furnished.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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03 MAY 2004

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In re Application of	:	
HE, Xiao Yan, et al.	:	
Application No.: 10/148,010	:	DECISION ON
PCT No.: PCT/AU00/01441	:	
Int. Filing Date: 24 November 2000	:	PETITION UNDER
Priority Date: 26 November 1999	:	
Attorney Docket No.: 229752002000	:	37 CFR 1.47(a)
For: METHOD OF INDUCING IMMUNE TOLERANCE	:	

This is a decision on applicants' "Renewed Petition Under 37 C.F.R. §1.47(a) to File on Behalf of Inventor Who Refuses to Execute Application," filed in the United States Patent and Trademark Office (USPTO) on 21 November 2003.

BACKGROUND

On 24 November 2000, applicants filed international application PCT/AU00/01441, claiming a priority date of 26 November 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 24 May 2001, within nineteen months from the priority date. A copy of the international application was transmitted to the Office on 31 May 2001 by the International Bureau. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 28 May 2002 (26 May 2002 was a Sunday and 27 May 2002 was a holiday).

On 24 May 2002, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 06 August 2002, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 10 March 2003, applicants submitted a petition under 37 CFR 1.47(a), which was accompanied by, *inter alia*, a declaration, a petition for a five month extension of time, the fee for a five month extension of time and a certification of first class mailing indicating the submission was deposited on 05 March 2003.

On 23 September 2003, the Office mailed Decision On Petition Under 37 CFR 1.47(a), dismissing applicants' petition without prejudice.

On 21 November 2003, applicants submitted a renewed petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign after being presented with the application papers or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the nonsigning applicant

Items (1), (3) and (4) were previously satisfied.

Item (2) has now been satisfied.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including accordation of a 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4) date of **10 March 2003**.

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PCT Legal Administration

Erin M. Pender
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03 MAY 2004

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Xiao Yan He
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Australia

In re Application of
HE, Xiao Yan, et al.
Application No.: 10/148,010
PCT No.: PCT/AU00/01441
Int. Filing Date: 24 November 2000
Priority Date: 26 November 1999
Attorney Docket No.: 229752002000
For: METHOD OF INDUCING IMMUNE TOLERANCE

Dear Ms. He:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

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

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25 JUL 2003

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In re Application of
WANG, et al.
Serial No.: 10/48,027
PCT No.: PCT/CN00/00305
Int. Filing Date: 30 September 2000
Priority Date: 30 September 2000
Atty Docket No.: 42390.P9273
For: METHOD, APPARATUS, AND SYSTEM FOR DISTRIBUTED MEETING SCHEDULING BASED ON AUTO-NOMOUS MULTI-AGENT

DECISION ON PETITION

UNDER 37 CFR 1.47(b)

This decision is in response to the applicant's "PETITION UNDER 37 CFR 1.47(b)" filed 02 June 2003 in the United States Patent and Trademark Office (USPTO) to accept the application without the signatures of inventors Zhihui WANG and Danjun LIU.

BACKGROUND

On 30 September 2000, applicant filed international application PCT/CN00/00305. A copy of the international application was communicated to the USPTO from the International Bureau on 11 April 2002. The nineteen month deadline for filing a Demand in the present application expired at midnight on 30 April 2002, accordingly pursuant to PCT Article 22(1), the thirty-month period for paying the basic national fee in the United States expired at midnight on 30 March 2003.

On 22 May 2002, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1). An executed oath or declaration of the inventor as required by 35 U.S.C. 371 (c)(4) was not filed.

On 20 September 2002, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an executed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. In addition, applicant was erroneously notified of the need to provide a surcharge of $130.00 for filing the oath or declaration later than 20 months from the earliest

priority date. (37 CFR 1.492(e). Applicant was afforded two months or by 32 months from the priority date whichever was later to respond.

On 02 June 2003, applicant responded with the present petition accompanied by payment of the $130.00 surcharge for filing the oath or declaration later than 20 months from the earliest priority date. Applicant has certified that the papers were deposited for mailing as a first class mailing on 30 May 2003 and thus are considered timely filed as falling within 32 months from the priority date.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17(I); (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the non-signing inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as an agent for the non-signing inventor; (5) proof of proprietary interest in the application; and, (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages. Therefore, a review of the papers provided finds that applicant has satisfied items (1), (3) and (6).

As to item (2), Section 409.03(d) of the Manual of Patent Examining Procedure (MPEP) states, in part:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, an affidavit or declaration of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 CFR 1.47. Such a petition will be dismissed as inappropriate.
>
> The affidavit or declaration of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as certified mail return receipt, cover letter of instructions, telegrams, etc., that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Applicant alleges that the non-signing inventors cannot be found or located after diligent effort. However, the only attempt made to locate the inventors appears to be mailing correspondence to the inventors' last known addresses. This does not constitute diligent effort to locate the missing inventors. Moreover, it does not appear that documentary evidence to support the failed attempts was provided with counsel's declaration; such as returned envelopes or tracking data from Federal Express. In addition, it does not appear that counsel has firsthand knowledge of the attempts to present the non-signing inventors with the application papers.

Regarding item (4), applicant has not filed an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as an agent for the non-signing inventors.

As to item (5), while applicant has included copies of the employment agreements executed by the inventors, applicant has not provided an affidavit from an individual with firsthand knowledge that the invention in question was made in the course of Wang and Liu's employment with Intel Corporation. See MPEP 409.03(f)

For the reasons stated above, it is not possible to grant applicant's petition at this time.

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.47(b) is **DISMISSED without prejudice**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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25 MAR 2004

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Los Angeles, CA 90025-1030

In re Application of :
WANG, et al. : DECISION ON RENEWED
Serial No.: 10/48,027 :
PCT No.: PCT/CN00/00305 : PETITION UNDER
Int. Filing Date: 30 September 2000 :
Priority Date: 30 September 2000 : 37 CFR 1.47(b)
Atty Docket No.: 42390.P9273 :
For: METHOD, APPARATUS, AND SYSTEM FOR DISTRIBUTED MEETING SCHEDULING BASED ON AUTONOMOUS MULTI-AGENT :

This decision is in response to applicant's "Renewed Petition Under 37 CFR 1.47(b)" filed 26 January 2004 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 25 July 2003, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47(b) to accept the application without the signatures of inventors Zhihui Wang and Danjun Liu. Applicant was afforded two months to file any request for reconsideration and advised that this period could be extended pursuant to 37 CFR 1.136(a).

On 26 January 2004, applicant responded with the present renewed petition accompanied by a petition for a four-month extension of time and payment of the appropriate extension fee. With the filing of the extension petition and payment of the extension fee, applicant's renewed petition is considered timely filed.

DISCUSSION

As detailed in the decision mailed 25 July 2003, a petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17(I); (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the non-signing inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as an agent for the non-signing inventor; (5) proof of proprietary interest in the application; and, (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages.

With the filing of the present renewed petition and accompanying papers, applicant has satisfied the remaining 3 items and it is appropriate to grant the renewed petition under 37 CFR 1.47(b).

As to item (2), applicant has provided a sufficient documentation detailing diligent efforts to locate the non-signing inventors and obtain their signatures on the declaration.

Regarding item (4), applicant has currently filed a combined declaration and power of attorney executed by Steven P. Skabrat on behalf of the assignee and on behalf of the non-signing inventors. In addition, in a concurrently filed declaration Mr. Skabrat self-certifies that he authorized to act on behalf of the corporation.

As to item (5), Mr. Skabrat has provided a signed statement in which he avows to having personal knowledge that inventors Wang and Liu developed the invention in question in the course of their employment with Intel Corporation.

Accordingly, applicant has satisfied all six items detailed above and it is proper to grant applicant's renewed petition at this time.

CONCLUSION

For the reasons stated above, applicant's renewed petition under 37 CFR 1.47(b) is **GRANTED**.

The application has an international filing date of 30 September 2000 under 35 U.S.C. 363, and will be given a date of 26 January 2004 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

As provided in 37 CFR 1.47(b), a notice of the filing of this application will be forwarded to the non-signing inventors at their last known addresses of record. A notice of the filing of the application under 37 CFR 1.47(b) will be published in the Official Gazette.

This application is being returned to the DO/EO/US for processing in accordance with this decision. Specifically, the mailing of a Notification of Acceptance (Form PCT/DO/EO/903).

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25 MAR 2004

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Mr. Zhihui Wang
Room 201, Cell 3, Building 33
Nong Guang Li, Chao Yang District
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In re Application of
WANG, et al.
PCT No.: PCT/CN00/00305
Application No.: 10/148,277
Int. Filing Date: 30 September 2000
Priority Date: 30 September 2000
Atty. Docket No.: 42P9273
For: METHOD, APPARATUS, AND SYSTEM
FOR DISTRIBUTED MEETING SCHEDULING
BASED ON AUTONOMOUS MULTI-AGENT

Dear Mr. Wang:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternately, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of the appropriate oath or declaration by you pursuant to

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Mr. Danjun Liu
Room 603, Building 7A
Yong an xi li Road, Chaoyang District
Beijing CHINA 100020

In re Application of
WANG, et al.
PCT No.: PCT/CN00/00305
Application No.: 10/148,277
Int. Filing Date: 30 September 2000
Priority Date: 30 September 2000
Atty. Docket No.: 42P9273
For: METHOD, APPARATUS, AND SYSTEM
FOR DISTRIBUTED MEETING SCHEDULING
BASED ON AUTONOMOUS MULTI-AGENT

Dear Mr. Liu:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternately, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of the appropriate oath or declaration by you pursuant to

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30 MAY 200

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In re Application of PAN et al	:	
U.S. Application No.: 10/148,028	:	
PCT Application No.: PCT/CN00/00306	:	
Int. Filing Date: 30 September 2000	:	DECISION
Priority Date Claimed: (none)	:	
Attorney Docket No.: 42390.P9274	:	
For: METHOD, APPARATUS, AND SYSTEM FOR BUILDING A COMPACT MODEL FOR LARGE VOCABULARY CONTINUOUS SPEECH RECOGNITION (LVCSR) SYSTEM	:	

This is in response to applicant's "Petition Under 37 CFR 1.47(a)" filed 02 May 2003, requesting that the present application be accepted for United States national stage processing without the signature of one of the two joint inventors.

BACKGROUND

On 30 September 2000, applicant filed international application PCT/CN00/00306. A copy of the international application was communicated to the USPTO from the International Bureau on 11 April 2002. The thirty-month period for paying the basic national fee in the United States expired on 30 March 2003.

On 22 May 2002, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 12 August 2002, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 02 May 2003, applicant filed the present petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

With regard to item (1) above, applicant has submitted a declaration signed by Baosheng Yuan on his/her own behalf and on behalf of the nonsigning inventor Jielin Pan.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, an affidavit or declaration of facts should be submitted which fully describes the exact facts which are relied on to establish that a diligent effort was made. . . . The affidavit or declaration of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as certified mail return receipt, cover letter of instructions, telegrams, etc., that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

The petition states that joint inventor Jielin Pan cannot be found. However, petitioner has not adequately demonstrated that a diligent effort was made to locate Pan. Specifically, one attempt was made to contact Pan by mail (see affidavit of James Salter, 5(1)), and one attempt was made to find a more current address for Pan (see Salter's affidavit, 5(2)). However, it is apparent that Clair Wallters is the person with firsthand knowledge of the purported attempts to reach Pan. No affidavit signed by Ms. Wallters has been provided. Furthermore, the copy of the returned Federal Express envelope will not be considered until an English language translation is provided. Additionally, petitioner has not shown that any search was conducted for Jielin Pan in telephone, address, or electronic mail directories. Moreover, no evidence of any attempts to contact Pan through joint inventor Baosheng Yuan or Pan's former co-workers, friends, or relatives has been provided. Therefore, it would be unreasonable to conclude at the present time that Pan cannot be located.

With regard to item (3) above, applicant has provided the requisite petition fee.

With regard to item (4) above, the petition states the last known address of the nonsigning inventor.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.47(a) is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file a proper response will result in ABANDONMENT of the application. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

DT14 Rec'd PCT/PTO 28 JUL 2003

HES

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
)
Jielin Pan et al.)
)
Serial No.: 10/148,028)
)
Filed: Not Yet Assigned)
)
For: METHOD, APPARATUS, AND SYSTEM FOR BUILDING A COMPACT MODEL FOR LARGE VOCABULARY CONTINUOUS SPEECH RECOGNITION (LVCSR) SYSTEM)

Bryan Tung, PCT Legal Examiner
PCT Legal Office
Mail Stop PCT
Commissioner for Patents
Office of PCT Legal Administration,
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO DECISION ON PETITION UNDER 37 C.F.R. 1.47(a)

Dear Examiner Tung:

In response to the above-referenced Decision, mailed May 30, 2003, on the subject Petition, the Applicants have obtained the signature of the inventor, Jielin Pan, who could not previously be found. Attached with this Response is a Declaration and Power Of Attorney form signed by the inventor Jielin Pan.

If any additional fee is required, please charge Deposit Account No. 02-2666. A duplicate of this Response is enclosed for deposit account charging purposes.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: 7/22/, 2003

James H. Salter (Reg. No. 35,668)

12400 Wilshire Blvd.
Seventh Floor
Los Angeles, CA 90025-1026
(408) 720-8300

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage in an envelope addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, VA 22313-1450 on July 23, 2003
(Date of Deposit)

Claire Wallters
(Typed or printed name of person mailing correspondence)

Claire Wallters 7/23/2003
(Signature of person mailing correspondence)

Attorney's Docket No.: 42390.P9274 Patent

First Named Inventor: Jielin Pan

Check One:

____ Declaration Submitted with Initial Filing OR

_X_ Declaration Submitted After Initial Filing (Surcharge under 37 C.F.R. § 1.16(e) Required).

Complete If Known:

Application No.: 10/148,028
Filing Date: Not Yet Assigned
Art Unit: Not Yet Assigned
Examiner Name: Not Yet Assigned

DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION
(FOR INTEL CORPORATION PATENT APPLICATIONS)

As a below named inventor, I hereby declare that:

My residence, mailing address, and citizenship are as stated below next to my name.

I believe I am the original, first, and sole inventor (if only one name is listed below) or an original, first, and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled
METHOD, APPARATUS, AND SYSTEM FOR BUILDING A COMPACT MODEL FOR LARGE VOCABULARY CONTINUOUS SPEECH RECOGNITION (LVCSR) SYSTEM

the specification of which

___ is attached hereto.

_X_ was filed on (MM/DD/YYYY) 09/30/2000 as
United States Application Number _____
or PCT International Application Number PCT/CN00/00306
and was amended on (MM/DD/YYYY) _____.
(if applicable)

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claim(s), as amended by any amendment specifically referred to above.

I do not know and do not believe that the claimed invention was ever known or used in the United States of America before my invention thereof, or patented or described in any printed publication in any country before my invention thereof or more than one year prior to this application. I do not know and do not believe that the claimed invention was in public use or on sale in the United States of America more than one year prior to this application, nor do I know or believe that the invention has been patented or made the subject of an inventor's certificate issued before the date of this application in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns more than twelve months (for a utility patent application) or six months (for a design patent application) prior to this application.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 C.F.R. 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or (f), or 365(b) of any foreign application(s) for patent, inventor's or plant breeder's rights certificate(s), or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent, inventor's or plant breeder's rights certificate(s), or any PCT international application having a filing date before that of the application on which priority is claimed:

Prior Foreign Application(s)			Priority Claimed?		Certified Copy Attached?	
PCT/CN00/00306 (Number)	PCT (Country)	09/30/2000 (Foreign Filing Date - MM/DD/YYYY)	X Yes	___ No	___ Yes	X No
___ (Number)	___ (Country)	___ (Foreign Filing Date - MM/DD/YYYY)	___ Yes	___ No	___ Yes	___ No
___ (Number)	___ (Country)	___ (Foreign Filing Date - MM/DD/YYYY)	___ Yes	___ No	___ Yes	___ No

I hereby appoint the persons listed on Appendix A hereto (which is incorporated by reference and a part of this document) as my respective patent attorneys and patent agents, with full power of substitution and revocation, to prosecute this application and to transact all business in the U. S. Patent and Trademark Office connected herewith.

Direct all correspondence to (check one):

____ **Customer Number or Bar Code Label** _ **OR**

_X_ **Correspondence Address Below:**

James H. Salter
(Name of Attorney or Agent)
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, California 90025
Telephone: (408) 720-8300
Fax: (408) 720-8383

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

Full Name of Sole/First Inventor Jielin Pan

Inventor's Signature Jielin Pan Date 07/11/2003

Residence Beijing, P.R. China (City, State, Country) Citizenship China (Country)

Mailing Address No. 302, 3 Unit, Dongwangzhuang, Haidian district, Beijing 100083, P.R. China

Full Name of Second/Joint Inventor Baosheng Yuan

Inventor's Signature _____ Date _____

Residence Singapore (City, State, Country) Citizenship Singapore (Country)

Mailing Address BLK 515, Jurong West, Street 52, #08-15 Singapore 640515

APPENDIX A

Ramin Aghevli, Reg. No. 43,462; William E. Alford, Reg. No. 37,764; Farzad E. Amini, Reg. No. 42,261; W. Thomas Babbitt, Reg. No. 39,591; Jordan M. Becker, Reg. No. 39,602; Michael A. Bernadicou, Reg. No. 35,934; Roger W. Blakely, Jr., Reg. No. 25,831; R. Alan Burnett, Reg. No. 46,149; Gregory D. Caldwell, Reg. No. 39,926; Thomas M. Coester, Reg. No. 39,637; Florin A. Corie, Reg. No. 46,244; Mimi D. Dao, Reg. No. 45,628; Stephen M. De Klerk, Reg. No. 46,503; Daniel M. De Vos, Reg. No. 37,813; Sanjeet Dutta, Reg. No. 46,145; Tarek N. Fahmi, Reg. No. 41,402; Thomas S. Ferrill, Reg. No. 42,532; George L. Fountain, Reg. No. 36,374; Adam Furst, Reg. No. 51,710; Angelo J. Gaz, Reg. No. 45,907; Andre M. Gibbs, Reg. No. 47,593; James Y. Go, Reg. No. 40,621; Melissa A. Haapala, Reg. No. 47,622; Alan E. Heimlich, Reg. No. 48,808; James A. Henry, Reg. No. 41,064; William E. Hickman, Reg. No. 46,771; Willmore F. Holbrow III, Reg. No. 41,845; Sheryl Sue Holloway, Reg. No. 37,850; George W Hoover II, Reg. No. 32,992; Libby H. Hope, Reg. No. 46,774; Eric S. Hyman, Reg. No. 30,139; Aslam A. Jaffrey, Reg., No. 51,841; William W. Kidd, Reg. No. 31,772; Walter T. Kim, Reg. No. 42,731; Eric T. King, Reg. No. 44,188; Steve Laut, Reg. No. 47,736; Suk S. Lee, Reg. No. 47,745; Gordon R. Lindeen III, Reg. No. 33,192; Jan C. Little, Reg. No. 41,181; Julio Loza, Reg. No. 47,758; Joseph Lutz, Reg. No. 43,765; Lawrence E. Lycke, Reg. No. 38,540; Michael J. Mallie, Reg. No. 36,591; Andre L. Marais, Reg. No. 48,095; Raul D. Martinez, Reg. No. 46,904; Paul A. Mendonsa, Reg. No. 42,879; Jonathan S. Miller, Reg. No. 48,534; Richard A. Nakashima, Reg. No. 42,023; Thien T. Nguyen, Reg. No. 43,835; Thinh V. Nguyen, Reg. No. 42,034; Robert B. O'Rourke, Reg. No. 46,972; Daniel E. Ovanezian, Reg. No. 41,236; Gregg A. Peacock, Reg. No. 45,001; Philip A. Pedigo, Reg. No. 52,107; Marina Portnova, Reg. No. 45,750; Joseph A. Pugh, Reg. No. 52,137; James H. Salter, Reg. No. 35,668; William W. Schaal, Reg. No. 39,018; James C. Scheller, Reg. No. 31,195; Saina S. Shamilov, Reg. No. 48,266; Kevin G. Shao, Reg. No. 45,095; Stanley W. Sokoloff, Reg. No. 25,128; Judith A. Szepesi, Reg. No. 39,393; Edwin H. Taylor, Reg. No. 25,129; Lisa Tom, Reg. No. 52,291; John F. Travis, Reg. No. 43,203; Kerry D. Tweet, Reg. No. 45,959; Mark C. Van Ness, Reg. No. 39,865; Thomas A. Van Zandt, Reg. No. 43,219; Lester J. Vincent, Reg. No. 31,460; Glenn E. Von Tersch, Reg. No. 41,364; John P. Ward, Reg. No. 40,216; Mark L. Watson, Reg. No. 46,322; Thomas C. Webster, Reg. No. 46,154; and Norman Zafman, Reg. No. 26,250; my patent attorneys, and William J. Daley, Reg. No. P-52,471; Brent E. Vecchia, Reg. No. 48,011, and Lehua Wang, Reg. No. 48,023; my patent agents, of BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP, with offices located at 12400 Wilshire Boulevard, 7th Floor, Los Angeles, California 90025, telephone (408) 720-8300, and Alan K. Aldous, Reg. No. 31,905; Shireen I. Bacon, Reg. No. 40,494: R. Edward Brake, Reg. No. 37,784; Ben Burge, Reg. No. 42,372; Robert A. Burtzlaff, Reg. No. 35,466; Glen B. Choi, Reg. No. 43,546; Kenneth Cool, Reg. No. 40,570; Jeffrey S. Draeger, Reg. No. 41,000; Cynthia Thomas Faatz, Reg No. 39,973; Christopher Gagne, Reg. No. 36,142; Sharmini N. Green, Reg. No. 41,410; Robert Greenberg, Reg. No. 44,133; Bradley Greenwald, Reg. No. 34,341; Jeffrey B. Huter, Reg. No. 41,086; John Kacvinsky, Reg. No. 40,040; Seth Z. Kalson, Reg. No. 40,670; Peter Lam, Reg. No. 44,855; David C. Lundmark, Reg. No. 42,815; Anthony Martinez, Reg. No. 44,223; Paul Nagy, Reg. No. 37,896; Dennis A. Nicholls, Reg. No. 42,036; Leo V. Novakoski, Reg. No. 37,198; Michael Proksch, Reg. No. 43,021; Kevin A. Reif, Reg. No. 36,381; Thomas C. Reynolds, Reg. No. 32,488; Crystal D. Sayles, Reg. No. 44,318; Kenneth M. Seddon, Reg. No. 43,105; Mark Seeley, Reg. No. 32,299; Steven P. Skabrat, Reg. No. 36,279; Howard A. Skaist, Reg. No. 36,008; Paul E. Steiner, Reg. No. 41,326; David Tran, Reg. No. 50,804; Calvin E. Wells, Reg. No. 43,256; Michael Willardson, Reg. No. 50,856; Robert G. Winkle, Reg. No. 37,474; Sharon Wong, Reg. No. 37,760; Steven D. Yates, Reg. No. 42,242; and Charles K. Young, Reg. No. 39,435; my patent attorneys, and George Chen, Reg. No. 50,807; Issac Lin, Reg. No. 50,672; Larry Mennemeier, Reg. No. 51,003; and Lanny Parker, Reg. No. 44,281; my patent agents, of INTEL CORPORATION; and James R. Thein, Reg. No. 31,710, my patent attorney.

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United States Patent and Trademark Office
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Paper No. 14

DR. RUDIGER NASS
MANAGING DIRECTOR
NANOGATE TECHNOLOGIES GMBH
GEWERBEPARK ESCHBERGERWEG
66121 SAARBRUCKEN DE
GERMANY

COPY MAILED

MAR 2 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Heuberger et al.	:	
Application No. 10/148,038	:	ON PETITION
Filed: September 16, 2002	:	
Attorney Docket No. PTK0029	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 25, 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 January 20, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on April 21, 2004. A Notice of Abandonment was mailed September 21, 2004.

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

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

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

The file is now 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

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

cc: ADAM F. COX
BAKER & DANIELS
111 EAST WAYNE ST., SUITE 800
FORT WAYNE, IN 46802

MAILED

JUL 12 2004

Office of the Director
Group 3600

UNITED STATES
PATENT AND
TRADEMARK OFFICE

In re Application of:	:	
Wilhelmus Hubertus Paulus Maria	:	NOTICE OF WITHDRAWAL
Heijen, et.al.	:	FROM ISSUE
Application No. 10/148.040	:	UNDER 37 CFR § 1.313(b)
Filed: July 8, 2002	:	
Attorney Docket No. TS6207US		

The above-identified application is withdrawn from issue after payment of the issue fee due to the unpatentability of one or more claims. See 37 CFR § 1.313(b).

The above-identified application is hereby withdrawn from issue.

The issue fee and publication fee are refundable upon written request. Applicant may also request that the fee be credited to a specified Deposit Account. Applicant may, however, wait until such time as the application is either allowed or abandoned to make such request. If the application is subsequently allowed, upon receipt of a new Notice of Allowance and Issue and Publication Fee Due, applicant may further request that the previously submitted issue fee and publication fee be applied toward payment of the issue fee and publication fee in the amount identified in the new Notice of Allowance and Issue and Publication Fee Due. This request, and any balance due, must be received on or before the due date noted in the new Notice of Allowance and Issue and Publication Fee Due in order to prevent abandonment of the application. If the application is abandoned, applicant may request either a refund or a credit to a specified Deposit Account.

Telephone inquires should be directed to Supervisory Patent Examiner David Bagnell at (703)-308-2151.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Donald T. Hajec, Director
Technology Center 3600

cc: Office of Patent Publication

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NOV - 1 2004
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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/16/08

TO SPE OF : ART UNIT 2889

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/148046** Patent No.: **7256850**

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: _____

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SPE

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Art Unit

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

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SEP 16 2008

OFFICE OF PETITIONS

In re Patent No. 7,256,850	:	ON PETITION
Issue Date: August 14, 2007	:	
Application No. 10/148,046	:	
Filed: May 24, 2002	:	
Attorney Docket No. 0941-1695PUS1	:	

This is a decision on the petition filed January 31, 2008, under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

Docket No.: 0941-1695PUS1
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Letters Patent of:
Toshiya INADA

Patent No.: 7,256,850

Issued: August 14, 2007

For: REFLECTIVE LIQUID CRYSTAL DISPLAY DEVICE

REQUEST UNDER 37 C.F.R. § 3.81(b) TO ISSUE PATENT TO ASSIGNEE

Adjustment Date: 09/15/2008 GARIAS
09/01/2008 INTEFSW 00004187 022448 10148046
01 FC:1811 100.00 CR
02 FC:1808 130.00 CR

Attention: Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants respectfully request hereby the issuance of the above-identified allowed patent application into a patent with the following assignee information and not as indicated in the Issue Fee Transmittal Form PTOL-85 submitted on July 3, 2007:

(a) Name of Assignee: TPO Hong Kong Holding Limited

(b) Residence: Shatin, Hong Kong

In accordance with 37 CFR 3.81(b), it is respectfully submitted that the assignment had been submitted for recordation as set forth in 37 CFR § 3.11 *before issuance of the patent*, and has been recorded at Reel 019038, Frame 0320. The processing fee of $130.00 under 37 CFR 1.17(i) is authorized to be charged to Deposit Account No. 02-2448.

09/15/2008 GARIAS 00000002 022448 7256850
Sale Ref: 00000002 DA#: 022448 7256850
01 FC:1808 130.00 DA
02 FC:1811 100.00 DA

KM/ASC/

Also, in accordance with 37 CFR 3.81(b), a request for a certificate of correction under 37 CFR § 1.323 is attached hereto, and the $100.00 fee required under 37 CFR § 1.20(a) is authorized to be charged to Deposit Account No. 02-2448.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fee required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Dated: January 31, 2008

Respectfully submitted,

By _____

Joe McKinney Muncy
Registration No.: 32,334
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicant

KM/ASC/

14 FEB 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paul I. J. Fleischut
Senniger, Powers, Leavitt & Roedel
One Metropolitan Square, 16th Floor
St. Louis, MO 63012

In re Application of	
LUDWIG, RALF, et al.	
Application No.: 10/148,090	DECISION ON
PCT No.: PCT/US00/30148	
Int. Filing Date: 21 November 2000	REQUEST
Priority Date: 25 November 1999	
Attorney's Docket No.: CEDE 2042.4	UNDER 37 CFR 1.42
For: PROCESS FOR THE EXTENDED USE OF ELECTROLYTES	

This decision is in response to applicants' 03 October 2002 submission. The declaration indicated that one inventor is deceased. This has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 21 November 2000, applicants filed international application PCT/US00/30148. A timely demand for international preliminary examination was filed on 20 June 2000. The deadline entry into the national stage in the United States was thirty months from the priority date, i.e., 28 May 2002. (25 May 2002 was a Saturday and 27 May 2002 was a holiday.)

On 24 May 2002, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 06 August 2002, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905), indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of an oath or declaration were required.

DISCUSSION

Under 37 CFR 1.42, in case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

The declaration is signed by inventors Ralf Ludwig and Gerd Schöngen and provides their citizenships, residences and mailing addresses. Additionally, the declaration identifies Hiltrud Tolls as the legal representative of deceased inventor Elmar Tolls and provides the citizenship, residence and mailing address of the legal representative in addition to the citizenship, and last known mailing address and residence of Elmar Tolls.

CONCLUSION

For the above reasons, the request for status under 37 C.F.R. 1.42 is **GRANTED**.

The application has an international filing date of 21 November 2000 under 35 U.S.C. §363 and a date of 03 October 2002 under 35 U.S.C. §371. This application is being forwarded to the National Stage Processing Division of PCT Operations for continued processing.

Boris Milef
PCT Legal Examiner
PCT Legal Administration

E. M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 703-305-0455
Facsimile: 703-308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6839037
Issue Date: January 4,2005
Application No. 10148103
Filed: July 9,2002
Attorney Docket No. 3981/OK556

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

This is a decision on the electronic petition, filed May 27,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 27,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MCCARTER & ENGLISH, LLP NEWARK
FOUR GATEWAY CENTER
100 MULBERRY STREET
NEWARK NJ 07102

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DEC 0 4 2009

OFFICE OF PETITIONS

In re Application of :
Randall Alberte, et al. :
Application No. 10/148,104 : NOTICE
Filed: September 17, 2002 :
Attorney Docket No. 7557/14/1 :

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

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

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

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

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

Chris Bottorff
Petitions Examiner
Office of Petitions

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Paper No.

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JUN 10 2008

OFFICE OF PETITIONS

BOYLE FREDRICKSON S.C.
840 North Plankinton Avenue
MILWAUKEE WI 53203

In re Application of :
Thorsten Herfet et al. :
Application No. 10/148,110 :
Filed: May 24, 2002 : DECISION ON PETITION
Attorney Docket No. 1829.003 : PURSUANT TO
Title: METHOD AND SYSTEM FOR : 37 C.F.R. § 1.137(B)
CONTROLLING AND EXCHANGING :
DATA FOR MULTIMEDIA APPLIANCES :
AND AN APPLIANCE SUITABLE :
THEREFOR

This is a decision on the petition filed April 8, 2008, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

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 November 28, 2007, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue or publication fees[1]. Accordingly, the above-identified application became abandoned on February 29, 2008. A Notice of Abandonment was mailed on March 10, 2008.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

1 See MPEP § 710.02(e).

(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 included the issue and publication fees, along with the proper statement of unintentional delay. The petition fee will be charged to Petitioner's Deposit Account in due course.

The first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.

Pursuant to this decision, the Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Office of Patent Publication in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Office of Patent Publication where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[2]. All other inquiries

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

concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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26 SEP 2003

David R.J. Stiennon
Lathrop & Clark LLP
740 Regent Street, Suite 400
PO Box 1507
Madison, WI 53701-1507

In re Application of	:	
KOJO, Teppo et al.	:	
Application No.: 10/148,120	:	DECISION
PCT No.: PCT/FI00/01016	:	
Int. Filing Date: 23 November 2000	:	ON PETITION UNDER
Priority Date: 25 November 1999	:	
Attorney's Docket No.: TAMPPAT-2	:	37 CFR 1.182
For: METHOD AND DEVICE IN REEL CHANGE	:	

This is a decision on applicant's "Petition Under 37 C.F.R. 1.81 Correction of Patent Office Error," filed in the United States Patent and Trademark Office on 11 July 2003. This response is being treated as a petition under 37 CFR 1.182. The petition fee will be charged as authorized by the transmittal letter.

BACKGROUND

On 23 November 2000, applicant filed international application PCT/FI00/01016, which claimed a priority date of 25 November 1999. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 31 May 2001. On 31 May 2001, applicants filed a demand for international preliminary examination which elected the United States, prior to nineteen months from the priority date. The deadline for entry into the national stage in the United States was midnight 28 May 2002 (25 May 2002 was a Saturday and 27 May 2002 was a holiday).

On 24 May 2002, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee.

On 29 August 2002, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the fee for late filing of the oath or declaration were required.

On 11 July 2003, applicant filed the present petition requesting that a filing date be accorded for the Response to Notification of Missing Requirements. The petition was accompanied by, *inter alia*, a copy of a letter regarding the submission of the declaration, a copy of a declaration and a postcard receipt.

PETDEC

DISCUSSION

A review of the documents submitted with the instant petition (which are copies of the documents purportedly filed 29 October 2002), shows that two pages of transmittal letter (Form PTO-1390) were captioned with an incorrect U.S. application number, *i.e.*, 10/148,128, not 10/148,120. (The letter accompanying the documents did list the correct U.S. application number.)

Upon review of Office records for 10/148,128, applicant's fees were located. Applicant's "Petition Under 37 C.F.R.1.81 Correction of Patent Office Error" has thus been treated as a petition under 37 CFR 1.182. The 29 October 2002 fees will be transferred to 10/148,120.

The paperwork that applicant claims to have mailed with the fees has not been located. Applicant indicates that the postcard receipt that accompanied this petition is a copy of the one received from the Office. It lists, *inter alia*, an assignment, a declaration and a power of attorney. Applicant has submitted an assignment, a declaration and a power of attorney and indicates that they are copies of the original submission. They are accepted as having a receipt date of 29 October 2002.

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.182 is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification of Acceptance (Form PCT/DO/EO/903) and filing receipt. The 35 U.S.C. §371(c) date is 29 October 2002.

Richard Cole
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

10/01/2003 [illegible] 10148120
01 FC:1460 130.00 OP

UNITED STATES PATENT AND TRADEMARK OFFICE

01 OCT 2002

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Workman, Nydegger & Seeley
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

In re Application of
Chiyuan Li
Application No. 10/148166
PCT No.: PCT/CN01/00546
Int. Filing Date: 06 April 2001
Priority Date: 26 May 2000
Atty. Docket No.: 15431.2
For: A Self Guided Locking Device For A Motorcycle Disk Brake Piece

DECISION ON

PETITION UNDER

37 CFR 1.137(b)

This is in response to the petition under 37 CFR 1.137(b) filed on 22 May 2002.

BACKGROUND

This international application was filed on 06 April 2001 and claimed earliest priority of an application filed on 26 May 2000. The International Bureau, under Article 20, transmitted a copy of the international application to the USPTO on 19 December 2001. No Demand electing the United States was filed prior to the elapse of 19 months from the priority date. Accordingly, the 20 month time period for paying the basic national fee in the United States expired at midnight on 28 January 2002 (as 26 January 2002 was a Saturday). This international application became abandoned with respect to the United States for failure to timely pay the required basic national fee.

On 22 May 2002, applicants filed the instant petition.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (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 (c) of this section.

Regarding requirement (1), the required reply in the form of the basic national fee accompanied the petition.

Regarding requirement (2), the petition fee accompanied the petition.

Regarding requirement (3), the petition includes 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 1.173(b) was unintentional." This statement is being construed as a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement in the petition is not correct. Thus, the statement in the petition is being accepted in satisfaction of 37 CFR 1.137(b)(3).

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

Regarding the declaration filed contemporaneously with the petition, applicant is advised that it is unacceptable under 37 CFR 1.497 because counsel has not filed a complete copy of the declaration as signed by the inventor. Rather, applicant has filed a copy of a complete "Combined Declaration And Power Of Attorney" form (comprising 4 pages) and has attached what appears to be a faxed "Signature(s)" section signed by the inventor. It is not clear whether the inventor signed a complete copy of the declaration. Therefore, a new declaration (or a complete copy of the declaration apparently signed on 17 May 2002) is required.

DECISION

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

This application is being forwarded to the National Stage Processing Branch for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the submission of an oath or declaration and a processing fee under 37 CFR 1.492(f).

~~Rich~~hard Cole
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
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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)
6916957	2005-07-12	10148174	2002-06-03	00243/US

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Bernard P. Friedrichsen/	Date (YYYY-MM-DD)	2009-10-05
Name	Bernard P. Friedrichsen	Registration Number	44689

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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United States Patent and Trademark Office
P.O. Box 1450
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In re Patent No. 6916957
Issue Date: July 12,2005
Application No. 10148174
Filed: June 3,2002
Attorney Docket No. 00243/US

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

This is a decision on the electronic petition, filed October 5,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 5,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

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JAN 28 2005

OFFICE OF PETITIONS

In re Application of :
Yukio Okada et al :
Application No. 10/148,188 : ON PETITION
Filed: July 11, 2002 :
Attorney Docket No. 223968US0PCT

This is a decision on the petition, filed January 19, 2005, which is being treated as a petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **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 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 should be directed to Irvin Dingle at (571) 272-3210.

This matter will be forwarded to Technology Center AU 1652 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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BACON & THOMAS, PLLC
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ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Patent No. 7,088,061
Application No. 10/148,215
Filing Date: June 10, 2002
Issue Date: August 8, 2006
Attorney Docket No. BILC3003/JEK

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.182, filed May 21, 2007, requesting issuance of duplicate Letters of Patent for the above-identified patent.

The petition is **granted**.

The file record discloses that the above-cited application matured into U.S. Patent No. 7,088,061 on August 8, 2006. Petitioner contends, however, that the patent was received but lost thereafter.

In view of the facts set forth in the petition, it is concluded that the original Letters of Patent was lost after receipt. The Publishing Division is directed to issue duplicate Letters of Patent.

Any questions concerning this decision may be directed to the undersigned at (571)272-3222. Any questions concerning issuance of the duplicate Letter of Patent should be directed to Krystal Paige at (703)308-9250.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc: Krystal Paige, P/OPPD, Crystal Park 3-910 (Fax 571-270-9937)

05 SEP 2002

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

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Sapna Gadhia
Roberts & Mercanti, L.L.P.
P.O. Box 3156
105 Lock Street, Suite 203
Newark, NJ 07103-0156

In re Application of
YOON, et al.
Application No.: 10/148,227
PCT No.: PCT/KR00/01365
Int. Filing Date: 27 November 2000
Priority Date: 27 November 1999
Attorney Docket No.: 428.1015
For: BATTERY

DECISION ON PETITION

UNDER 37 CFR 1.182

This decision is in response to applicant's "Petition to Correct Foreign Priority Claim" filed 24 May 2002 in the United States Patent and Trademark Office (USPTO). The petition is being treated as a petition under 37 CFR 1.182. Applicant has provided payment of the $130.00 petition fee.

BACKGROUND

On 27 November 2000, applicant filed international application PCT/KR00/01365, which claimed priority of an earlier application filed 27 November 1999. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 27 May 2002.

On 24 May 2002, applicant filed a Transmittal Letter for entry into the national stage in the United States, which was accompanied by, inter alia: the basic national fee; a copy of the international application; a copy of the International Preliminary Examination report; a copy of the International Search Report; an assignment document for recording; an Information Disclosure Statement; a First preliminary amendment and the present petition.

DISCUSSION

Applicant requests that the USPTO consider the second application from which priority is claimed to be "1999/64403 29 December 1999 (29.12.1999) KR." Applicant explains that the listing of "1999/64402 29 December 1999 (29.12.1999) KR" on the cover sheet of the international application was the result of an unintentional, typographical error. As applicant has provided sufficient statement of explanation as to the change and provided payment of the

$130.00 petition fee it is proper to grant applicant's petition under 37 CFR 1.182 at this time. The second priority application for the present application will be considered to be "1999/64403 29 December 1999 (29.12.1999) KR." for the purposes of entering the National stage in the United States.

CONCLUSION

The petition under 37 CFR 1.182 is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch of the International Division for continued national stage processing.

Richard Cole
PCT Legal Examiner
PCT Legal Office

Derek A. Putonen
Petitions Attorney
PCT Legal Office
Tel: (703) 305-0130
Fax: (703) 308-6459

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SUITE 800
WASHINGTON, DC 20037

Paper No.

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OFFICE OF PETITIONS

In re Patent No. 6,774,196
Taira et al.
Issue Date: August 10, 2004
Application No. 10/148,230
Filed: May 28, 2002
Atty Docket No.: Q69912

DECISION ON PETITION

This is a decision on the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d) filed September 13, 2004. Patentees request that the patent term adjustment for this application be re-set from zero (0) days to thirty-nine (39) days.

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

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **thirty-nine (39)** days.

On August 10, 2004, the above-identified application issued as U.S. Patent No. 6,774,196, with a revised patent term adjustment of zero (0) days. Patentees timely filed the instant request within two months of the issue date. Patentees dispute the reduction of seventy-five (75) days associated in PAIR with "workflow-drawings finished." Patentees contend that no amendment or other papers pursuant to 37 C.F.R. § 1.312 were filed after the notice of allowance issued and thus, no delay is attributable to applicants.

Patentees arguments are well-taken. A review of the application history confirms that no paper was filed after the mailing of the notice of allowance. Specifically, as stated by patentees, the drawings filed May 28, 2002 were accepted. The notice of allowance did not include a request for formal drawings and no such drawings (or other paper pursuant to 37 C.F.R. § 1.312) were filed after the mailing of the notice of allowance.

In view thereof, the patent should have issued with a revised Patent Term Adjustment of thirty-nine (39) 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 **THIRTY-NINE (39)** days.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Kerry A. Fries
for

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

Enclosure: Copy of DRAFT Certificate of Correction

17 DEC 2002
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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

James C. Wray
Suite 300
1493 Chain Bridge Road
McLean, VA 22101

In re Application of :
STIESDAL, Henrik :
U.S. Application No.: 10/148,264 : DECISION ON PETITION
PCT No.: PCT/DK01/00622 :
International Filing Date: 28 September 2001 :
Priority Date: 29 September 2000 :
Attorney's Docket No.: PATRADE :
For: METHOD FOR REGULATING A WINDMILL :
AND AN APPARATUS FOR THE USE OF SAID :
METHOD :

This decision is issued in response to applicant's "Petition For Revival" filed 22 July 2002. As discussed below, this petition is **MOOT**; applicant's petition fee will be refunded.

BACKGROUND

On 28 September 2001, applicant filed international application PCT/DK01/00622 which claimed a priority date of 29 September 2000 and which designated the United States. On 11 April 2002, a copy of the international application was communicated to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB").

Because the twenty-month date for this application was later than 01 April 2002 (i.e., 29 May 2002, twenty months after the priority date), the deadline for payment of the basic national fee was thirty months from the priority date, i.e., 29 March 2003.

On 29 May 2002, applicant filed a transmittal letter for entry into the national stage in the United States. The submission was not accompanied by payment for the basic national fee or an executed declaration.

On 22 July 2002, applicant filed the Petition For Revival considered herein. The Petition was accompanied an executed declaration and payment of the following fees: $1,280 as the petition fee, $130 as the surcharge for filing the declaration later than twenty months after the priority date, and $1,040 as the basic national fee.

On 24 September 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 indicating that an oath or declaration in compliance with 37 CFR 1.497 was required.

DISCUSSION

Under revised 37 CFR 1.495, if the twenty-month deadline from the priority date falls after 01 April 2002, applicant has thirty months from the priority date to enter the national stage in the United States. This is true regardless of whether a Chapter II Demand was timely filed. In the present case, the twenty-month deadline was 29 May 2002, later than 01 April 2002. Accordingly, applicant had until 29 March 2003 to enter the national stage in the United States.

Based on the above, the present national stage application was never abandoned. Applicant's Petition For Revival is therefore moot.

As noted above, the Petition For Revival was accompanied by an executed declaration in compliance with 37 CFR 1.497. Accordingly, the Notification Of Missing Requirements mailed 24 September 2002, based as it was on applicant's purported failure to file such declaration, is appropriately vacated.

CONCLUSION

Applicant's Petition For Revival is **MOOT**. The $1,280 petition fee and $130 surcharge payment will be refunded to applicant.

The Notification Of Missing Requirements mailed 24 September 2002 is hereby **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accord with this decision. The 35 U.S.C. 371(c) date is 22 July 2002.

Richard M. Ross
PCT Petitions Attorney
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UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MAR 03 2008

In re Application of
Henrik Stiesdal
Application No. 10/148,264
Filed: July 22, 2002
Attorney Docket No. PATRADE

ON PETITION

This is a decision on the Petition to Revive, filed October 1, 2007 under 37 CFR 1.137(b), to revive the above identified application.

The petition is **DISMISSED**.

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

This application became abandoned January 3, 2004 for failure to pay the issue fee in response to the Notice of Allowance mailed October 1, 2003. Accordingly, a Notice of Abandonment was mailed February 10, 2004.

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

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

While petitioners argue that the delay in timely paying the issue fee was due to an error in the address of record, on the part of the USPTO, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (more than three) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having

the right to reply to avoid abandonment on September 11, 2002. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, petitioner should explain why this application became abandoned while it was under his control and what efforts he made to further reply. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from anyone else who was involved with this application at the time of abandonment. Statements are required from any and all persons having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over five years) could

trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

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

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper 17

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JUN 25 2008

OFFICE OF PETITIONS

In re Application of
Henrik Stiesdal
Application No. 10/148,264
Filed: July 22, 2002
Attorney Docket No. PATRADE

ON PETITION

This is a decision on the renewed petition to revive, filed March 13, 2008 under 37 CFR 1.137(b), to revive the above identified application.[1] In view of the request for refund of the petition fee, the petition is treated as a petition to withdraw the holding of abandonment, under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

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

This application became abandoned January 3, 2004 for failure to pay the issue fee in response to the Notice of Allowance mailed October 1, 2003. Accordingly, a Notice of Abandonment was mailed February 10, 2004. A petition filed October 1, 2007 was dismissed in a decision mailed March 3, 2008 because while petitioners argued that the delay in timely paying the issue fee was due to an error in the address of record, on the part of the USPTO, the entired delay had not been shown to the satisfaction of the Director to be unintentional.[2]

---

[1] 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).

[2] There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;
(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and
(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Comes now petitioner with the instant renewed petition and evidence the entire delay was unintentional.

A review of the file reveals that on May 22, 2003, while petitioner intended to update the address of record for the assignee, the correspondence address of record was changed which led to the Notice of Allowance and Notice of Allowability dated October 1, 2003, as well as the Notice of Abandonment dated February 10, 2004, being mailed to the assignee instead of to the Attorney of Record.

A review of the record also reveals that the Issue Fee Transmittal Form (PTOL-85b) has not been supplied, however, the issue fee in the amount of $1440 and the petition fee in the amount of $1540 have been charged to the credit card provided with the petition filed October 1, 2007. In view of the above however, the publication fee in the amount of $300 has been taken out of the $1540 petition fee and the balance, $1250 is being refunded to the credit card provided.

If petitioner desires to have the information normally found in the Issue Fee Transmittal Form (PTOL-85b) printed on the patent, an Issue Fee Transmittal Form should be completed and returned to the Publishing Division within ONE (1) MONTH from the mail date of this decision.

This application is being forwarded to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

Deborah Gladstein
Morrison & Foster LLP
2000 Pennsylvania Avenue, N.W.
Washington D.C. 20006-1888

In re Application of	:	
Friedrich LOEBNER	:	
Application No.: 10/148,271	:	DECISION ON
PCT No.: PCT/DE00/03616	:	
Int. Filing Date: 11 October 2000	:	PETITION UNDER
Priority Date: 03 November 1999	:	
Attorney's Docket No.: 449122026800	:	37 CFR 1.137(b)
For: COMPRESSED GAS-BLAST	:	
CIRCUIT BREAKER	:	

This is in response to the "Petition For Revival Of An Application for Patent Abandoned Unintentionally Under 37 CFR 1.137" filed on 29 May 2002.

BACKGROUND

On 11 October 2000, this international application was filed, claiming an earliest priority date of 03 November 1999.

On 04 May 2001, a Demand electing the United States was filed in this international application. Accordingly, the deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 03 May 2002. This international application became abandoned with respect to the United States at midnight on 03 May 2002 for failure pay the basic national fee.

On 29 May 2002, applicant filed in the United States Patent and Trademark Office (PTO) the instant petition, and a transmittal letter for entry into the national stage in the U.S. under 35 U.S.C. 371, which was accompanied by, *inter alia*, the U.S. basic national fee, and an executed declaration.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition

pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b).

DECISION

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. The 35 U.S.C. 371 date of this application is **29 May 2002**.

The required fees of $260.00 (the surcharge of $130.00 under 1.492(e) for late filing of the declaration and $130.00 under 1.492(f) for an English translation after thirty months) has been charged to Deposit Account No. 03-1952 as authorized in the petition.

Rafael Bacares
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12 AUG 2002
UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of: OGIWARA, Manabu, et al.	:	
U.S. Application No.: 10/148,344	:	DECISION ON PETITION TO
PCT No.: PCT/JP00/07515	:	REVIVE ABANDONED
International Filing Date: 26 October 2000	:	APPLICATION UNDER 37
Priority Date: 29 October 1999	:	CFR 1.137(b)
Attorney's Docket No.: 10936-68	:	
For: RESIN COMPOSITION FOR POWDER MOLDINGS	:	

The petition to revive under 37 CFR 1.137(b) filed 30 May 2002 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the enclosed Transmittal Letter and attachments thereto from the due date of April 29, 200 until the filing of the Petition was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

Applicant has now submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

It is noted that applicant's 30 May 2002 submission also included an executed declaration in compliance with 37 CFR 1.497 and a translation of the international application into English. Deposit Account No. 04-1133 has been charged the $130 surcharge for filing the declaration later than 30 months after the priority date and the $130 processing fee for filing the translation later than thirty months after the priority date.

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision. The 35 U.S.C. 371 date is **30 May 2002.**

Richard M. Ross
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PCT Legal Office
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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/31/04

TO SPE OF : ART UNIT 2834

SUBJECT : Request for Certificate of Correction on Patent No.: 6,617,743

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~~ 7590 - Tel. No. 305-~~8309~~ 8201

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

Please see COCIN dated 9-17-03 in the table of contents in IFW.

Diana T. Rose
Certificates of Correction Branch

Thank You For Your Assistance

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

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

Comments: Minor Correction to drawings. The fee has not been charged for the petition yet.

DARREN SCHUBERG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

2834
Art Unit

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/25/04

TO SPE OF : ART UNIT 2834

SUBJECT : Request for Certificate of Correction on Patent No.: 6617743

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.

Thank You For Your Assistance

_____
Certificates of Correction Branch

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

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

Comments:

_____

_____

_____

_____

_____

_____ _____
SPE **Art Unit**

02 DEC 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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Louis Woo
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In re Application of:	:	
PAASIVAARA, Esa-Pekka, et al.	:	DECISION ON PETITION TO
U.S. Application No.: 10/148,384	:	REVIVE ABANDONED
PCT No.: PCT/FI00/01105	:	APPLICATION UNDER 37
International Filing Date: 18 December 2000	:	CFR 1.137(b)
Priority Date: 17 December 1999	:	
Attorney's Docket No.: 0101/0020	:	
For: SUPPORT DEVICE REPLACING THE EXISTENCE OR FUNCTION OF A LIMB	:	

The petition to revive under 37 CFR 1.137(b) filed 04 September 2002 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

Applicant has now submitted the small entity basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

It is noted that the 04 September 2002 submission also included an executed declaration in compliance with 37 CFR 1.497.

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision. The 35 U.S.C. 371 date is **04 September 2002**.

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UNITED STATES PATENT AND TRADEMARK OFFICE

JAN 22 2008

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In re Application of:	:
Cripps et al.	:
Serial No.: 10/148,414	: PETITION DECISION
Filed: December 2, 2002	:
Attorney Docket No.:	:
0382.1460000/MAC/SJE	

This is in response to the petition under 37 CFR § 1.181, filed December 11, 2007, requesting that the finality of the Office action of July 11, 2007 be withdrawn.

BACKGROUND

On July 3, 2006, the examiner mailed a detailed restriction requirement under PCT Rule 13.1 and divided the claims into 23 groups (Group I-Group XXIII) including Group VIII which consisted of claims 9, 10, 13 and 14, drawn to a 40 kDa protein derived from *P. aeruginosa* having the amino terminal sequence of SEQ ID NO: 5; and a method of making the same. The examiner indicated that Groups I-XXIII lacked unity of invention and set forth reasoning in support thereof.

In response to the restriction requirement, on August 30, 2006, applicants filed a response which included the election of Group VIII, claims 9, 10, 13 and 14 with traverse.

The examiner mailed a non-final Office action on October 23, 2006, setting a three month shortened statutory period for reply. In this action, claims 1-4, 6, 7 and 9-22 were pending in the application. The examiner considered applicants' traversal of the restriction requirement, but maintained that the Groups lacked unity of invention. The examiner further reconsidered the placement of claim 10 into original Group VIII and withdrew claim 10 from consideration on the merits indicating that SEQ ID NO:5 was not required for claim 10 and therefore lacked unity of invention with claims 9, 13 and 14. The examiner then made the restriction requirement FINAL. Claims 1-4, 6, 7, 10-12 and 15-22 were withdrawn from examination, and claims 9, 13 and 14 were examined on their merits. The examiner instituted the following rejections:

1) Claim 9 "and those dependant therefrom" were rejected under 35 U.S.C. § 101 as being directed toward non-statutory subject matter,

2) Claims 9, 13 and 14 were rejected under 35 U.S.C § 112 Second paragraph for being indefinite,

3) Claim 9 was rejected under 35 U.S.C. § 102(b) as being anticipated by Ambler et al. (FEBS Lett. 215: 285-290, 1987), and

4) Claims 9, 13 and 14 were rejected under 35 U.S.C. § 102(e)(2) as being anticipated by Rubenfield et al. (US 6,551,795).

The examiner additionally objected to claims 9 "and those dependant therefrom" for containing non-elected subject matter.

It is noted that the examiner indicated "and those dependant therefrom" with regard to the rejection pertaining to (1) above, as well as with regard to the objection. While other claims besides claims 13 and 14 were dependant upon claim 9 at the time the examiner mailed the non-final Office action, it is accepted that the examiner meant "claims 9, 13 and 14" since claims 9, 13 and 14 were the only claims under consideration for examination. Therefore, the rejection of (1) above is interpreted to mean that claims 9, 13 and 14 were rejected under 35 U.S.C. § 101 as being directed toward non-statutory subject matter, and the objection is interpreted to mean that claims 9, 13 and 14 were objected to collectively.

In reply to the non-final Office action of October 23, 2006, applicants submitted arguments and amendments to the claims on April 23, 2007 which included the cancellation of claim 9, amendments to claims 13 and 14, and the addition of new claims 23-26.

On July 11, 2007, the examiner mailed a final Office action setting a three month shortened statutory period for reply. In this final Office action, claims 1-4, 6, 7 and 10-26 were pending and claims 13, 14 and 23-26 were examined on their merits. Although the examiner did not specifically indicate this on the record, claims 1-4, 6, 7, 10-12 and 15-22 presumably remained withdrawn from consideration on the merits as being directed toward a non-elected invention since the examiner did not indicate that these claims were under consideration.

The examiner removed the following rejections made in the non-final Office action:

1) Claim 9 under 35 U.S.C. § 101 as being directed to non-statutory subject matter,

2) Claim 9 under 35 U.S.C § 112, second paragraph, as being indefinite,

3) Claim 9 under 35 U.S.C. § 102(b) as being anticipated by Ambler et al. (FEBS Lett. 215: 285-290, 1987),

4) Claim 9 under 35 U.S.C. § 102(e)(2) as being anticipated by Rubenfield et al. (US 6,551,795),

5) Claim 14 under 35 U.S.C § 112, second paragraph, as being indefinite,

6) Claims 13 and 14 under 35 U.S.C § 112, second paragraph, as being indefinite and

7) Claims 13 and 14 under 35 U.S.C. § 102(e)(2) as being anticipated by Rubenfield et al. (US 6,551,795) .

The examiner indicated that the removal of these rejections were necessitated due to either the cancellation of claim 9 (1-4 above) or due to applicants' amendments to the claims (5-7 above) respectively. It is further noted that the examiner indicated that the previous rejection of claim 9 under 35 U.S.C. § 101 was a 'provisional' rejection. However, there is no such indication of record that the rejection made over claim 9 and "claims dependant therefrom" under 35 U.S.C. § 101 was 'provisional' and therefore, this appears to be an inadvertent error.

The examiner instituted the following new rejections:

1) Claim 13 "and those dependant therefrom" were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter, (It is noted "and those dependant therefrom" is interpreted to mean claims 14 and 23-26 since all of these claims depend directly or indirectly upon claim 13),

2) Claims 23-26 were rejected under 35 U.S.C § 112, second paragraph, as being indefinite,

3) Claims 13, 14 and 23-26 were rejected under 35 U.S.C. § 102(b) as being anticipated by Rubenfield et al. (US 6,551,795),

4) Claims 13, 23 and 25 were rejected under 35 U.S.C. § 102(b) as being anticipated by Ambler et al. (FEBS Lett. 215: 285-290, 1.987) as evidenced by Hunter (US 5,554,372) or Berinstein et al. (US 2004/0033234),

5) Claims 14 and 24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ambler et al. (FEBS Lett. 215: 285-290, 1987) as applied to 'claims 13 and 24' above and further in view of Clarke PH (In: Microorganisms as Model System for Studying Evolution. (Ed) Mortlock RP. Plenum Press,New York, pp.187-231, 1984) and

6) Claims 13, 14, 25 and 26 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Clarke PH (ln: Microorganisms as Model System for Studying Evolution. (Ed) Mortlock RP. Plenum Press, New York, pp. 187-231, 1984).

It is noted that with regard to (5) above, it appears that the examiner inadvertently stated 'as applied to claims 13 and 24' while it appears that the examiner meant 'as applied to claims 13, 23 and 25' as there was no previous rejection of only claims 13 and 24 over Ambler et al.

In response thereto, applicants filed this petition on December 11, 2007, requesting that the finality of the Office action of July 11, 2007 be withdrawn.

DISCUSSION

The petition and the file history have been carefully considered.

Applicants argue in the petition filed on December 11, 2007 that the examiner instituted new grounds of rejection which were not necessitated by amendment and thus contend that the final Office action of July 11, 2007 was premature and should be withdrawn. Specifically, applicants assert that claim 13, as amended, merely limits claim 13 to comprising embodiment (iii) of original claim 9 (now cancelled), wherein the embodiment of part (iii) of original claim 9 was present in original claim 13 which was examined on the merits. Applicants argue that claim 14 was merely amended to change the first word in the claim; 'A' to 'The' and traverses any new rejections made over claims 13 and 14 as necessitated by amendment.

Applicants argue that the rejection over claim 13 under 35 U.S.C. § 101 was a new rejection not necessitated by amendment, and could have been raised in the non-final Office action.

Applicants further argue that the rejections found in paragraphs 21 and 23 made under 35 U.S.C. § 103(a) in the final Office action could have been made in the non-final Office action and additionally, that these rejections were not necessitated by applicants' amendments to the claims.

It is noted that with regard to claims 23-26 newly added in applicants' amendment filed on April 23, 2007, that claim 23 merely limits claim 13 to wherein the composition is the protein, and claim 25 merely limits claim 13 to wherein the composition is an antigenic fragment, both embodiments having been present in claim 13 originally. Claims 24 and 26 limit claims 23 and 25, respectively, to wherein the composition is a vaccine composition, which further comprises an adjuvant. These limitations were already present in original claim 14 which was examined on the merits in the first Office action.

Taking into consideration the new rejections made in the final Office action, a review of original claim 9 (now cancelled), original claim 13 and claim 13 as amended is in order.

Claim 9 prior to cancellation stated, in part:

> A protein for use in medicine, particularly in the treatment, prophylaxis or diagnosis of infection by *P. aeruginosa*, wherein the protein is derived from *P. aeruginosa* and either:...
> (iii) has a molecular weight of about 40 kDa as determined by SDS PAGE under reducing conditions and has the following amino terminal sequence:
> M R HG D I S S S N D T V G
> Met Arg His Gly Asp Ile Ser Ser Ser Asn Asp Thr Val Gly (SEQ ID NO: 5)
> or an antigenic fragment or a homologue thereof; or...

Original claim 13 stated:

> A pharmaceutical composition comprising one or more of the proteins (i) to (v) as defined in claim 9 or antigenic fragment thereof, together with a pharmaceutically acceptable excipient.

Claim 13 as amended on April 23, 2007, stated:

> A pharmaceutical composition for the treatment, prophylaxis, or diagnosis of infection by *P. aeruginosa*, said composition comprising a *P. aeruginosa* protein which has a molecular weight of about 40 kDa as determined by SDS-PAGE under reducing conditions and has the amino terminal sequence set forth in SEQ ID NO: 5, ~~one or more of the proteins (i) to (v) as defined in claim 9~~ or an antigenic fragment thereof, together with a pharmaceutically acceptable excipient.

It is clear that claim 13 originally contained the embodiment of claim 9, part (iii) as original claim 13 stated, "A pharmaceutical composition comprising *one or more of the proteins (i) to (v) as defined in claim 9...*" (emphasis added). Applicants' amendment to claim 13 on April 23, 2007 narrowed the scope of claim 13 to wherein the composition was not 'one or more of the proteins (i) to (v) as defined in claim 9,' but was specifically amended to be directed narrowly toward a *P. aeruginosa* protein which has a molecular weight of about 40 kDa as determined by SDS-PAGE under reducing conditions and has the amino terminal sequence set forth in SEQ ID NO: 5; the *same* embodiment present in original claim 9, as well as in original claim 13.

It is additionally noted that while claim 13 was amended to insert the intended use " for the treatment, prophylaxis, or diagnosis of infection by *P. aeruginosa*," , this intended use was originally present in claim 9 and, therefore, was already examined on the merits. It is pointed out that the examiner stated in the final rejection that this language possessed no patentable weight (pp. 8 and 9, final Office action) and, therefore, was not used as a basis for any new rejection made in the final Office action.

It is determined that the replacement of 'A' with 'The' in claim 14 does not constitute reasoning for placing a new rejection over claim 14. It is deemed that the replacement of 'A' with 'The' in claim 14 does not change the scope of claim 14.

The examiner, in the final Office action, explicitly removed the rejection over claims 13 and 14 under 35 U.S.C. § 102(e)(2) as being anticipated by Rubenfield et al. (US 6,551,795) and instituted a new rejection over claims 13, 14 and 23-26 under 35 U.S.C. § 102(b) as being anticipated by Rubenfield et al. (US 6,551,795).

The MPEP § 1207.03 (III) states:

> There is no new ground of rejection when the basic thrust of the rejection remains the same such that an appellant has been given a fair opportunity to react to the rejection. See In re Kronig, 539 F.2d 1300, 1302-03, 190 USPQ 425, 426-27 (CCPA 1976). *Where the statutory basis for the rejection remains the same, and the evidence relied upon in support of the rejection remains the same, a change in the discussion of, or rationale in*

support of, the rejection does not necessarily constitute a new ground of rejection. Id. at 1303, 190 USPQ at 427 (reliance upon fewer references in affirming a rejection under 35 U.S.C. 103 does not constitute a new ground of rejection).

It is unclear why the examiner changed the statute from 102(e) to 102(b) as there is no explanation of record by the examiner for this change (e.g., change in granted priority of this case). A review of this case indicates that applicants' filing date is prior to the publication date of Rubenfield et al. (US 6,551,795) and thus, the Rubenfield et al. does not appear to be available for rejection under 35 U.S.C. § 102(b) as a statutory bar. Because the examiner explicitly removed the 102(e) rejection as being anticipated by Rubenfield et al. and placed the new 102(b) rejection over Rubenfield et al. in the final Office action which is a *new statutory basis for rejection*, this is considered a *new* rejection. This new rejection was not necessitated by amendment with regard to any of claims 13, 14 and 23-26.

Because claim 13 originally comprised the embodiment of claim 9, part (iii), it is deemed that the examiner's rejection of claims 13, 23 and 25 under 35 U.S.C. § 102(b) as being anticipated by Ambler et al. (FEBS Lett. 215: 285-290, 1.987) as evidenced by Hunter (US 5,554,372) or Berinstein et al. (US 2004/0033234) was a new rejection, not necessitated by applicants' amendments to the claims. This rejection of claims 13 and 14 could have been made in the non-final Office action.

It follows that because claim 13 originally comprised the embodiment of claim 9, part (iii), it is deemed that the examiner's rejection of claims 14 and 24 under 35 U.S.C. § 103(a) as being unpatentable over Ambler et al. (FEBS Lett. 215: 285-290, 1987) as applied to 'claims 13 and 24' above and further in view of Clarke PH (In: Microorganisms as Model System for Studying Evolution. (Ed) Mortlock RP. Plenum Press,New York, pp.187-231, 1984) was a new rejection, not necessitated by applicants' amendments to the claims. This rejection of claims 13 and 14 could have been made in the non-final Office action.

It also follows that because claim 13 originally comprised the embodiment of claim 9, part (iii), it is deemed that the examiner's rejection of claims 13, 14, 25 and 26 under 35 U.S.C. § 103(a) as being unpatentable over Clarke PH (ln: Microorganisms as Model System for Studying Evolution. (Ed) Mortlock RP. Plenum Press, New York, pp. 187-231, 1984) was a new rejection, not necessitated by applicants' amendments to the claims. This rejection of claims 13 and 14 could have been made in the non-final Office action.

Because the examiner originally rejected claims 13 and 14 under 35 U.S.C. § 101 in the non-final Office action (again, the examiner's recitation of claim 9 "and those dependant therefrom" in the non-final Office action is interpreted to mean claims 9, 13 and 14 collectively) as being directed to non-statutory subject matter, the rejection of claims 13 and 14 under 35 U.S.C. § 101 in the final Office action is not considered a new rejection because this rejection was instituted for the same reasoning as given for the rejection of claims 9, 13 and 14 in the non-final Office action. The rejection of claims 23-26 under 35 U.S.C. § 101 in the final Office action (again, the examiner's recitation of claim 13 "and those dependant therefrom" in the final Office action is interpreted to mean claims 13, 14 and 23-26) is considered a new rejection necessitated by applicants' amendments; i.e., the addition of claims 23-26 in the amendment filed on April 23, 2007.

The rejection of claims 23-26 under 35 U.S.C § 112, second paragraph, as being indefinite in the final Office action is considered a new rejection necessitated by applicants' amendments to the claims; i.e., the addition of claims 23-26 in the amendment filed on April 23, 2007, because the examiner's reasoning for placing these rejections were based upon the dependencies of these claims, and not solely based upon embodiments which were originally present in claims 13 or 14.

In addition, MPEP § 706.07 Final Rejection states:

> 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....The applicant who is seeking to define his or her invention in claims that will give him or her the patent protection to which he or she is justly entitled should receive the cooperation of the examiner to that end, and not be prematurely cut off in the prosecution of his or her application....*In making the final rejection, all outstanding grounds of rejection of record should be carefully reviewed, and any such grounds relied on in the final rejection should be reiterated. They must also be clearly developed to such an extent that applicant may readily judge the advisability of an appeal unless a single previous Office action contains a complete statement supporting the rejection (emphasis added)

The final Office action of July 27, 2007 contained new grounds of rejection made by the examiner which were not necessitated by applicants' amendments to the claims. For this reason, it is decided that prosecution of this case was prematurely made final.

DECISION

Applicants' arguments are persuasive that the final Office action issued July 11, 2007 was premature and the finality of the Office action will be withdrawn.

The petition is **GRANTED.**

This application will be forwarded to the examiner for an action not inconsistent with this decision.

Should there be any questions about this decision please contact Marianne C. Seidel, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

John LeGuyader
Director, Technology Center 1600

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WASHINGTON DC 20005

MAILED

MAR 13 2009

OFFICE OF PETITIONS

In re Application :
Cripps, et al. :
Application No. 10/148,414 : PATENT TERM ADJUSTMENT
Filed: December 2, 2002 :
Dkt. No.: 0382.1460000/MAC :

This is in response to the "Application for Patent Term Adjustment under 37 C.F.R. § 1.705. This application is being properly treated under 37 CFR 1.705(b). The application was timely filed along with the issue fee payment on December 10, 2008.

The Determination of Patent Term Adjustment under 35 USC 154(b) was mailed September 12, 2008. Applicants argue that the application is entitled to an additional adjustment of 1181 days pursuant to 35 USC 154(b)(1)(B) and 37 CFR 1.702(b).

Applicants contest the adjustment insofar as it relates to the Office's failure to issue the patent within three years of the filing date of the application pursuant to 37 CFR 1.703(b) in view of Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

To the extent that this application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is ordinarily required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See, 37 CFR 1.703(b). It is noted that at the time of this decision, the patent has not issued.

Applicants are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicants may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

With respect to the over 3 year calculation, rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term 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.

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 issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

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

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MAR 26 2010

OFFICE OF PETITIONS

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

In re Patent No. 7,517,533 : DECISION ON APPLICATION FOR
Issued: April 14, 2009 : PATENT TERM ADJUSTMENT and
Application No. 10/148,414 : NOTICE OF INTENT TO ISSUE
371(c) Date: December 2, 2002 : CERTIFICATE OF CORRECTION
Dkt. No.: 0382.1460000/MAC :

This is a decision on the petition filed May 8, 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 1,399 days.

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

The correct period of "A" delay is 906 days and not 882 days as set forth by patentee.

The correct adjustment to which the patent is entitled pursuant to 37 CFR 1.702(b) is 1,180 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 June 4, 2005, the day after the date that is three years of the date of commencement, and ends on August 26, 2008, the day before the RCE was filed, and not August 27, 2008, the day of filing of the RCE as calculated by patentees. See, 35 U.S.C. 154(b)(1)(B)(i). Thus, the over 3 year period is 1,180 days and not 1,181 days.

The period of "A" delay and "B" delay share 415 overlapping days (from April 12, 2008 to May 1, 2008, a total of 20 days, and from June 4, 2005 to July 3, 2006, a total of 395 days.)

Patentee's own calculation of adjustment neglects the reduction of 112 days in connection with the filing of the Notice of Appeal pursuant to 37 CFR 1.703(b)(4). The reduction commenced January 11, 2008, the date that the Notice of Appeal was filed, and ended May 1, 2008, the day that the final Office action was mailed. See, 37 CFR 1.703(b)(4).

In view thereof, the patent is entitled to an overall adjustment of 1,290 days ("A" adjustment of 906 days + "B" adjustment of 1,180 days – 415 overlapping days – 269 days of applicant delay – 112 days of delay pursuant to 37 CFR 1.703(b)(4)).

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

The 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 Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by 1290 days.

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

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,517,533 B2

DATED : **April 14, 2009** **DRAFT**

INVENTOR(S) : Cripps, 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 734 days

Delete the phrase "by 734 days" and insert -- by 1,290 days --

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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18 AUG 2006

FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

In Re Application of
VALERIO CIGAINA
Application No.: 10/148,421
PCT No.: PCT/US00/33236
Int. Filing Date: 07 December 2000
Priority Date: 07 December 1999
Attorney Docket No.: 66973 (6328)
For: REMOVABLE GASTRIC BAND

DECISION ON

PETITION

This is a decision on applicant's "Request for Corrected Filing Receipt" filed in the United States Patent and Trademark Office (USPTO) on 12 September 2005.

BACKGROUND

On 07 December 2000, applicant filed international application No. PCT/US00/33236 which claimed a priority date of 07 December 1999 and which designated the United States. Thereafter, on 24 May 2002, before the expiration of the thirty month period, applicant filed, *inter alia*, a transmittal letter for entry into the national stage and the basic national stage filing fee. On 25 November 2002, applicant sent an executed declaration for filing.

On 25 March 2003, a Notification of Acceptance Under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) indicating a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 25 November 2002 and indicating a date of receipt of all 35 U.S.C. requirements of 25 November 2002.

Applicant urges that the filing receipt be corrected to indicate a filing date of 24 May 2002.

DISCUSSION

A review of the application file indicates that the executed declaration, in compliance with 37 CFR 1.497(a) and (b), was deposited with the USPTO on 25 November 2002. A review of the application in the USPTO's Image File Wrapper (IFW) file confirms that the executed declaration was submitted on 25 November 2002, in compliance with 37 CFR 1.497(a) & (b). The Notification of Acceptance mailed on 25 March 2003 is correct.

The evidence of record is sufficient to establish with reasonable certainty that the declaration was filed with the USPTO on 25 November 2002. A filing date under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) of 25 November 2002 will be accorded application 10/148,421.

The actual filing date of the present application is considered to be the international filing

The actual filing date of the present application is considered to be the international filing date, 07 December 2000. The application file indicates that applicant completed the requirements set forth in 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) on 25 November 2002. The Notification of Acceptance (FORM PCT/DO/EO/903) mailed on 25 March 2003 indicated the proper 35 U.S.C. 371(c) (1), (c)(2) and (c)(4) date. (Note MPEP section 1893.03(b).)

CONCLUSION

For the reasons set forth above, applicant's request to correct the filing receipt to reflect the 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 24 May 2002 is **REFUSED**. A new filing receipt will not be issued.

The Notification of Acceptance (Form PCT/DO/EO/903) mailed on 25 March 2002 correctly indicates a 35 U.S.C. 371(c) (1), (c)(2) and (c)(4) date of 25 November 2002. The date of receipt of all 35 U.S.C. requirements of 25 November 2002 is correct.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: (571)272-3286

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SOUTHFIELD, MI 48034-2442

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JUN 0 4 2004

OFFICE OF PETITIONS

In re Application of :
Maximilian Bendix, et al. :
Application No. 10/148,427 : ON PETITION
Filed: May 29, 2002 :
Attorney Docket No. IN-5585 :

This is a decision on the petition, filed May 27, 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 26, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 1713 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).

22 JAN 2003

#5

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Madan, Mossman, & Sriram P.C.
2603 Augusta Drive, Suite 700
Houston, Texas 77057-5638

In re Application of :
MARIS et al. :
Application No.: 10/148,442 : DECISION ON PETITION
PCT No.: PCT/EP00/12400 :
Int. Filing Date: 06 December 2000 :
Priority Date: 08 December 1999 :
Attorney Docket No.: KPR-1007US :
For: FREE FLOWING POWDER

This is a decision on applicants' "Supplemental Response to Notice of Missing Requirements under 35 U.S.C. 371" filed 08 January 2003, which is being treated as petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 06 December 2000, applicants filed international application no. PCT/EP00/12400 which claimed a priority date of 08 December 1999. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 14 June 2001. A Demand was filed for International Preliminary Examination prior to the 19th month from the earliest claimed priority date. As a result, the deadline for payment of the basic national fee was to expire 30 months from the priority date, or at midnight on 08 June 2002.

On 20 May 2002, applicants filed a Transmittal Letter for entry into the national stage accompanied, *inter alia,* by: the requisite basic national fee; a copy of the international application; and a preliminary amendment.

On 12 August 2002, the United States Designated Office (DO/EO/US) mailed a Notification Missing Requirements under 35 CFR 371 (Form PCT/DO/EO/905) indicating that a signed oath/declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) together with a surcharge payment were required. The notification set a two-month time limit in which to respond.

On 08 January 2003, applicants filed present petition which was accompanied by: a declaration and power of attorney and a postcard receipt dated 03 October 2002.

DISCUSSION

Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

> "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

Here, applicants have provided a copy of their date-stamped filing receipt. The receipt identifies the application by applicants, title of invention, and serial/application number as 10/148,442. The receipt itemizes a Declaration and Power of Attorney. The receipt is stamped "Rec'd. PCT/PTO 03 OCT 2002" across its face is sufficient to indicate that the declaration and power of attorney was in fact received in the Office on 03 October 2002.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **GRANTED**.

This application will be given an international filing date of 06 December 2000 and a date of **03 October 2002** under 35 U.S.C. 371.

The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (703) 308-6314
Fax: (703) 308-6459

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#6

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08 MAY 2003

Shari J. Corin, Ph.D.
Needle & Rosenberg, P.C.
The Candler Building
127 Peachtree Street, N.E.
Atlanta, GA 30303-1811

In re Application of	:	
HAWIGER, et al.	:	
U.S. Application No.: 10/148,457	:	DECISION ON PETITIONS
PCT No.: PCT/US00/32516	:	
Int. Filing Date: 29 November 2000	:	UNDER 37 CFR 1.182
Priority Date: 29 November 1999	:	
Attorney's Docket No.: 22000.0095U2	:	AND 37 CFR 1.497
For: CELL PERMEABLE PEPTIDES FOR INHIBITION OF INFLAMMATORY REACTIONS AND METHODS OF USE	:	

This decision is in response to applicant's "Petition Under 37 C.F.R. § 1.182 to Change Inventor's Name as Listed on Patent Application" filed 20 February 2003 in the United States Patent and Trademark Office (USPTO). In addition, an examination of the papers finds a statement from Yao-Zhong Lin seeking to be added as an inventor pursuant to 37 CFR 1.497.

BACKGROUND

On 29 November 2000, applicant filed international application PCT/US00/32516, which claimed priority of an earlier application filed 29 November 1999. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 29 May 2002.

On 29 May 2002, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the International Search Report and a Sequence Listing. Applicant did not file an executed oath or declaration of the inventors.

On 15 August 2002, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an executed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International Application number and international filing date. Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 20 February 2003, applicant filed the present petition accompanied by a petition for a four-month extension of time; an executed combined declaration and power of attorney; a declaration signed by Sheila Downs and a statement from Yao-Zhong Lin seeking to be added as an inventor pursuant to 37 CFR 1.497. With the filing of the petition for a four-month extension of time and payment of the fee and certification that the papers were deposited for mailing on 12 February 2003, the response is considered timely filed.

DISCUSSION

I. Petition under 37 CFR 1.182

The present petition is accompanied by a declaration setting forth the procedure whereby the change of name was effected; specifically the inventor legally changed her name from her married name, Sheila Timmons, back to her maiden name, Sheila Downs. The declaration is executed by Ms. Downs using her current name. As such, it is appropriate to grant applicant's petition under 37 CFR 1.182 at this time.

II. Petition under 37 CFR 1.497

A request under 37 CFR 1.497(d) [formally, 37 CFR 1.48] to correct an error in naming inventorship requires:

(1) ~~a petition including~~ a statement from each person being added or deleted as an inventor that the error in inventorship occurred without any deceptive intention on his or her part;

(2) an oath or declaration by the actual inventor(s) as required by 37 CFR 1.63;

(3) the fee set forth in 37 CFR 1.17(i); and

(4) if an assignment has been executed by any of the original named inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b).

As to Item (1), applicant has provided a statement from Yao-Zhong Lin declaring that he is a co-inventor for the present application and avowing that the error in inventorship occurred without deceptive intent.

Regarding Item (2), applicant has filed a combined declaration and power of attorney executed by Yao-Zhong Lin as well as the other co-inventors identified in the published international application.

As Item (3), applicant has provided payment of the $130.00 petition fee.

Regarding Item (4), applicant has provided the written consent of the assignee in compliance with 37 CFR 3.73(b).

As such, applicant has satisfied all four items detailed above and it is proper to grant applicant's petition at this time. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have now been satisfied.

CONCLUSION

The petition under 37 CFR 1.182 to change the inventor's name from Sheila TIMMONS to Sandra DOWNS is **GRANTED**.

The petition under 37 CFR 1.497 to add Yao-Zhong Lin as an inventor is **GRANTED**.

The application has an international filing date of 29 November 2000 under 35 U.S.C. 363 and a date of **20 February 2003** under 35 U.S.C. 371(c).

This application is being forwarded to the National Stage Processing Branch of the International Division for continued national stage processing.

Leonard Smith
Legal Examiner
Office of PCT Legal Administration

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (703) 305-0130
Fax: (703) 308-6459

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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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8-17-2009

Patent No. :7,428,705
Ser. No. : 10/148,495
Inventor(s) : Simon Paul Ronald, et. al.
Issued : September 23, 2008

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.

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

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

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

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

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

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

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

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

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

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

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 756-1583 or 1580

Ashok Mannava
11240 Waples Mill Road Suite 300
Fairfax, VA 22030

ej

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 021006

DATE : Feb. 6, 2006

TO SPE OF : ART UNIT 2877 (Gregory Toatley)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,922,251 10/148499

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

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**

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

Please notice that request in 1050 differs from Amdt. Jan. 7, 05, cross-out text is listed as "(Rad(m+j, n+j)), not (Rad(m+i n+j)). Your denial or approval decision is needed below.

sp Stacy Powell

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 x120

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

Note your decision on the appropriate box.

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

Comments:

Gregory J. Toatley, Jr.
Supervisory Patent Examiner
SPE

2877
Art Unit

10 MAR 2004

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489 Fifth Avenue
New York, NY 1017-6105

In re Application of	:	
KIM, Chung-Il	:	DECISION
Application No.: 10/148,500	:	
PCT No.: PCT/GB00/04436	:	ON PETITION UNDER
Int. Filing Date: 21 November 2000	:	
Priority Date: 24 November 1999	:	37 CFR 1.10(d)
Docket No.: KED006/Kosmin	:	
For: PORTABLE GAS COOKING RANGE	:	

This decision is in response to applicant's "Renewed Petition Under 37 C.F.R. §1.10(d) to Correct Filing Date" filed on 11 July 2003. No petition fee is required.

BACKGROUND

On 04 December 1998, applicant filed international application PCT/GB00/04436, which claimed a priority date of 24 November 2000. A copy of the international application was transmitted to the United States Patent and Trademark Office on 31 May 2001 from the International Bureau. On 16 May 2001, a Demand for international preliminary examination in which the United States was elected was filed prior to nineteen months from the priority date. As such, the deadline for paying the basic national fee in the United States was 24 May 2002.

Applicant filed, via Express Mail, a transmittal letter accompanied by the basic national fee. The Express Mail mailing label indicated a "date in" of 28 May 2002.

On 09 August 2002, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration and the surcharge for late filing of the oath or declaration were required.

On 05 September 2002, applicant submitted a declaration executed by the inventor and the instant petition.

On 06 December 2002, the Office issued a Notification of Acceptance (Form PCT/DO/EO/903) listing the 35 U.S.C. 371 dates as 05 September 2002.

On 26 March 2003, applicant filed a copy of the 05 September 2002 petition via facsimile.

On 30 May 2003, the Office mailed Decision On Petition Under 37 CFR 1.10(d), dismissing applicant's petition without prejudice.

On 11 July 2003, applicant submitted a renewed petition.

On 23 September 2003, the Office mailed Decision On Petition Under 37 CFR 1.10(d), dismissing applicant's petition without prejudice.

On 20 November 2003, applicant submitted a second renewed petition.

DISCUSSION

In the instant petition, applicant requests that the filing date be amended to 24 May 2002. The Express Mail mailing label lists the "date in" as 28 May 2002. Based on this evidence, the Office correctly granted a receipt date of 28 May 2002 pursuant to 37 CFR 1.10(a).

Applicant argues that the application was actually submitted to the USPS on 24 May 2002. 37 CFR § 1.10(d) allows an applicant to petition to correct an incorrectly entered "Date In" of an Express Mail receipt and states that:

> (d) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the"date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

Items (1) and (2) were previously satisfied.

Item (3) has not been satisfied. As indicated in 37 CFR 1.10(d), only evidence from USPS and evidence that came into being after deposit and within one business day of deposit will be considered. The declarations of Susan Costantini came into being more than one business day after deposit of the package with Express Mail.

The Express Mail log lacks sufficient indications to demonstrate that it was made within one business day of the deposit of the package with Express Mail. The Express Mail log submitted by petitioner does not contain the information described in MPEP §513 for accepting

such logs, *e.g.*, the time of deposit and the date and time of the entry of information into the log. Applicant argues that as MPEP 513[1] uses permissive rather than mandatory language, that applicant's log is sufficient because applicant believes "the clear intent of the Express Mail log is to properly identify an Express Mail deposit, and to provide a means for entering and validating the mailing and received dates."

However, MPEP 513 indicates that the reason for the log requirements is to provide reliable evidence as applicant is asking the Office to take the word of an interested party, the applicant, over the word of a disinterested party, USPS, as to the date of the package's deposit with Express Mail. MPEP 513 states "Due to the questionable reliability of evidence that did not come into being contemporaneously with the deposit of the correspondence with USPS, 37 CFR 1.10(d) specifically requires that any petition under 37 CFR 1.10(d) be corroborated either by evidence from USPS, or by evidence that came into being either one business day after deposit of the correspondence as "Express Mail."

Applicant alleges that the Express Mail log lists the date of entry of information. Applicant states "the May 24, 2002 ('Date Mailed') and the May 28, 2002 ('Date Stamped') dates are clearly written in the log." First, the 24 May 2002 date was written in the log prior to the package being deposited with Express Mail. In Ms. Costantini's declaration accompanying the 05 September 2002 petition, she indicates that she made the entry into the log prior to mailing the package. (Costantini Dec. 05 Sep. 2002 at ¶5 stating "The significance of the number *24* is that I received a set of papers for the KIM application and an envelope from Alan Israel on May 24, 2002. I entered this date in the logbook of *Exhibit 2* on that date. Thereupon, I inserted the papers into the envelope on May 24, 2002 and sealed the envelope.") She indicates that she mailed the package on her way home from work. The 24 May 2002 date is the date that she prepared the package for mailing. Second, the 28 May 2002 date is the date that was stamped on the Express Mail mailing label when it was returned to applicant's office. This is not an indication of the day on which the entry was made. It is not until the Supplemental Declaration of Susan Costantini submitted on 11 July 2003, that applicant indicates that the 28 May 2002 entry was made in the log on 28 May 2002.

Accordingly, the national stage submission was properly accorded a receipt date of 28 May 2002.

Applicant alleges that if the abandonment of this case were to stand, applicant would suffer irreparable harm. Applicant's attention is drawn to the possibility of filing a petition under 37 CFR 1.137(b) to revive an international application abandoned unintentionally.

---

[1]MPEP 513 states in part "Evidence that came into being after deposit and within one day after the deposit of the correspondence as "Express Mail" may be in the form of a log book which contains information such as the 'Express Mail' number; the application number, attorney docket number or other such file identification number; the place, date and time of deposit; the time of the last scheduled pickup for that date and place of deposit; the depositor's initials or signature; and the date and time of the entry into the log." (Emphasis in original)

CONCLUSION

For the reasons listed above, applicant's petition under 37 CFR 1.10(d) to correct the international filing date is **DISMISSED** without prejudice.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.10(d)."

The application is **ABANDONED**.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
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Facsimile: 703-308-6459

05 MAY 2004

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489 Fifth Avenue
New York, NY 1017-6105

In re Application of	:	
KIM, Chung-Il	:	
Application No.: 10/148,500	:	DECISION
PCT No.: PCT/GB00/04436	:	
Int. Filing Date: 21 November 2000	:	ON PETITION UNDER
Priority Date: 24 November 1999	:	
Docket No.: KED006/Kosmin	:	37 CFR 1.137(b)
For: PORTABLE GAS COOKING RANGE	:	

Applicant's "Petition For Revival of an Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 04 May 2004 is **GRANTED**.

Applicant states that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional, as required by 37 CFR 1.137(b)(3). The appropriate national fee and the petition fee have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A declaration in compliance with 37 CFR 1.497(a)-(b) has been submitted.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision. The application has a date of 05 September 2002 under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4).

Erin M. Pender

Erin M. Pender
Attorney Advisor
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30 MAY 2003

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In re Application of	
KIM, Chung-Il	DECISION
Application No.: 10/148,500	
PCT No.: PCT/GB00/04436	ON PETITION UNDER
Int. Filing Date: 21 November 2000	
Priority Date: 24 November 1999	37 CFR 1.10(d)
Docket No.: KED006/Kosmin	
For: PORTABLE GAS COOKING RANGE	

This decision is in response to applicant's "Petition Under 37 C.F.R. §1.10(d) to Correct Filing Date" filed on 26 March 2003. No petition fee is required.

BACKGROUND

On 04 December 1998, applicant filed international application PCT/GB98/03631, which claimed a priority date of 24 November 2000. A copy of the international application was transmitted to the United States Patent and Trademark Office on 31 May 2001 from the International Bureau. On 16 May 2001, a Demand for international preliminary examination in which the United States was elected was filed prior to nineteen months from the priority date. As such, the deadline for paying the basic national fee in the United States was 24 May 2002.

Applicant filed, via Express Mail, a transmittal letter accompanied by the basic national fee. The Express Mail mailing label indicated a "date in" of 28 May 2002.

On 09 August 2002, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration and the surcharge for late filing of the oath or declaration were required.

On 05 September 2002, applicant submitted a declaration executed by the inventor and the instant petition.

On 06 December 2002, PTO issued a Notification of Acceptance (Form PCT/DO/EO/903) listing the 35 U.S.C. 371 dates as 05 September 2002.

On 26 March 2003, applicant filed a copy of the 05 September 2002 petition via facsimile.

DISCUSSION

In the instant petition, applicant requests that the filing date be amended to 24 May 2002. The Express Mail mailing label lists the "date in" as 28 May 2002. Based on this evidence, the Office correctly granted a receipt date of 28 May 2002 pursuant to 37 CFR 1.10(a).

Applicant argues that the application was actually submitted to the USPS on 24 May 2002. 37 CFR § 1.10(d) allows an applicant to petition to correct an incorrectly entered "Date In" of an Express Mail receipt and states that:

> (d) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the"date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

Applicant has satisfied items (1) and (2). Concerning item (3), applicant has not provided sufficient evidence that the above-captioned application was deposited with the USPS prior to the last scheduled pickup on 24 May 2002. The evidence must be from the USPS or have come into "being after deposit and within one business day of deposit of the correspondence with 'Express Mail Post Office to Addressee' service of the USPS." The Declaration of Susan Constantini is unclear in explaining whether the Express Mail log was created prior to the deposit of the letter with Express Mail. It appears that the log entry was created in anticipation of depositing the letter and its contents with Express Mail. If this is the case, it would not qualify as evidence that came into being after deposit and within one business day after deposit. Further, the Express Mail log does not contain the information described in MPEP §513.

Accordingly, the national stage submission was properly accorded a receipt date of 28 May 2002. Consequently, issuance of both the Notification of Missing Requirements (Form PCT/DO/EO/905) and the Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903) was improper, as the present application is abandoned.

CONCLUSION

For the reasons listed above, applicant's petition under 37 CFR 1.10(d) to correct the international filing date is **DISMISSED** without prejudice.

The Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 09 August 2002 is **VACATED**.

The Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903) mailed 06 December 2002 is **VACATED**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.10(d)."

The application is **ABANDONED**.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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PCT Legal Administration

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23 SEP 2003

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In re Application of :
KIM, Chung-Il :
Application No.: 10/148,500 :
PCT No.: PCT/GB00/04436 :
Int. Filing Date: 21 November 2000 :
Priority Date: 24 November 1999 :
Docket No.: KED006/Kosmin :
For: PORTABLE GAS COOKING RANGE :

DECISION

ON PETITION UNDER

37 CFR 1.10(d)

This decision is in response to applicant's "Renewed Petition Under 37 C.F.R. §1.10(d) to Correct Filing Date" filed on 11 July 2003. No petition fee is required.

BACKGROUND

On 04 December 1998, applicant filed international application PCT/GB98/03631, which claimed a priority date of 24 November 2000. A copy of the international application was transmitted to the United States Patent and Trademark Office on 31 May 2001 from the International Bureau. On 16 May 2001, a Demand for international preliminary examination in which the United States was elected was filed prior to nineteen months from the priority date. As such, the deadline for paying the basic national fee in the United States was 24 May 2002.

Applicant filed, via Express Mail, a transmittal letter accompanied by the basic national fee. The Express Mail mailing label indicated a "date in" of 28 May 2002.

On 09 August 2002, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration and the surcharge for late filing of the oath or declaration were required.

On 05 September 2002, applicant submitted a declaration executed by the inventor and the instant petition.

On 06 December 2002, the Office issued a Notification of Acceptance (Form PCT/DO/EO/903) listing the 35 U.S.C. 371 dates as 05 September 2002.

On 26 March 2003, applicant filed a copy of the 05 September 2002 petition via facsimile.

On 30 May 2003, the Office mailed Decision On Petition Under 37 CFR 1.10(d), dismissing applicant's petition without prejudice.

On 11 July 2003, applicant submitted the instant renewed petition.

DISCUSSION

In the instant petition, applicant requests that the filing date be amended to 24 May 2002. The Express Mail mailing label lists the "date in" as 28 May 2002. Based on this evidence, the Office correctly granted a receipt date of 28 May 2002 pursuant to 37 CFR 1.10(a).

Applicant argues that the application was actually submitted to the USPS on 24 May 2002. 37 CFR § 1.10(d) allows an applicant to petition to correct an incorrectly entered "Date In" of an Express Mail receipt and states that:

> (d) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the"date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
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> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
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> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";
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> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

Items (1) and (2) were previously satisfied.

Concerning item (3), applicant has not provided sufficient evidence that the above-captioned application was deposited with the USPS prior to the last scheduled pickup on 24 May 2002. The evidence must be from the USPS or have come into "being after deposit and within one business day of deposit of the correspondence with 'Express Mail Post Office to Addressee' service of the USPS." The declarations of Susan Constantini are the only evidence as to the time of deposit of the package in the Express Mail receptacle on 24 May 2002. Those declarations came into being more than one business day after deposit of the application with Express Mail. The Express Mail log submitted by petitioner does not contain the information described in MPEP §513 for accepting such logs, *e.g.*, the time of deposit and the date and time of the entry of information into the log.

Accordingly, the national stage submission was properly accorded a receipt date of 28 May 2002.

CONCLUSION

For the reasons listed above, applicant's petition under 37 CFR 1.10(d) to correct the international filing date is **DISMISSED** without prejudice.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.10(d)."

The application is **ABANDONED**.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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SPE D. Smith

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/148,507

Paper No.: _____

DATE : 10/1/05

TO SPE OF : ART UNIT 1724

SUBJECT : Request for Certificate of Correction on Patent No.: 6872232

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:

ROBERT A. HOPKINS
PRIMARY EXAMINER
A.U. 1724

DUANE SMITH
SUPERVISORY PATENT EXAMINER
SPE 10-12-05

1724
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

28 AUG 2003

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

Kimberly A. Chasteen
Williams Mullen
One Old Oyster Point Road, Suite 210
Newport News, VA 23602

In re Application of	
RUSSELL, David C. et al.	DECISION ON
Application No. 10/148,511	
Receipt Date: 29 November 2000	PETITION
Docket No.: 032901.0001-IV	
For: METHODS, SYSTEMS AND APPARATUSES FOR SECURE TRANSACTIONS	UNDER 37 CFR 1.181

This decision is in response to Applicant's "Petition Under 37 CFR 1.182," filed with the United States Patent and Trademark Office on 25 June 2003. It has been treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 29 November 2000, applicant filed international application PCT/US00/42323, which claimed a priority date of 30 November 1999. A demand for international preliminary examination was filed on 27 June 2001. The thirty month period for paying the basic national fee expired at midnight on 30 May 2002.

On 30 May 2002, applicant filed five transmittal letters for entry into the national stage in the United States, accompanied by, *inter alia*, the basic national fee. The files were assigned serial number 10/148,510; 10/148,511; 10/148,512; 10/148,610 and 10/148,611. Application 10/148,512 proceeded as the national stage of PCT/US00/42323.

On 22 April 2003, the Office mailed Notification.

On 25 June 2003, applicant submitted a request to withdraw the instant application and to refund the fees.

DISCUSSION

As is evident from the above recited facts, five sets of papers to enter the national stage were submitted for international application number PCT/US00/42323 (United States application numbers 10/148,510; 10/148,511; 10/148,512; 10/148,610 and 10/148,611). The end result for an international application designating the United States of America is a single U.S. national stage application. Therefore, the submission of five sets of national stage papers to enter the United States was improper. Applicant asks that the Office withdraw this application.

CONCLUSION

For the above reason, applicant's petition under 37 CFR 1.181 is **GRANTED**.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further national stage processing, including refund of the filing fee paid with respect to the 10/148,511 application. Applicant should use application number 10/148,512 in all future communications with the Patent and Trademark Office regarding the U.S. National stage of international application PCT/US00/42323.

Richard Cole
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

OFFICE PCT/PTO 25 JUN 2003

10/148512

Atty docket no.: 032901.0001-IV PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of :

RUSSELL, David C. et al. :

Serial No.: 10/148,511 : Examiner:

Filed: May 30, 2002 : Art Unit:

For: METHODS, SYSTEMS AND APPARATUSES FOR SECURE TRANSACTIONS

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service by First Class Mail in an envelope addressed to the Commissioner for Patents, Mail Stop PCT, PO Box 1450, Alexandria, VA 22313-1450 on June 23, 2003.

Date: 23 June 2003

Kimberly A Chaster
Attorney of Record

Petition Under 37 CFR 1.182

Commissioner of Patents and Trademarks
Alexandria, VA 22313-1450

Sir:

Responsive to the Notice mailed April 22, 2003, please abandon the above referenced patent application. According to the Notice, U.S. Patent Application Serial No. 10/148,512 is proceeding as the national stage application of PCT/US00/42323. As such, the Applicant is filing a preliminary amendment to amend Application Serial No.

10/148,512 to include the claims filed in the instant application. Further, Applicant hereby requests that the fees paid in the instant application be refunded to Deposit Account 50-0766 as no substantive examination has occurred with respect to the application.

Respectfully submitted,

Kimberly A. Chasteen
Reg. No. 36,755

June 23, 2003

(757) 249-5100

Williams Mullen
One Old Oyster Point Road, Suite 210
Newport News, VA 23692

Resp to OA -Privaris IV.doc

DT Rec'd PCT/PTO 25 JUN 2003
10/148512

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 PCT, Assistant Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on June 23, 2003.

Kimberly A. Chasteen
Printed or typed name of person signing certificate

Kimberly A Chasteen
Signature of person signed the certificate

23 June 2003
Date of signature

UNITED STATES PATENT AND TRADEMARK OFFICE

#3

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

22 APR 2003

Kimberly A. Chasteen
Williams Mullen
One Old Oyster Point Road, Suite 210
Newport News, VA 23602

In re Application of :
RUSSELL, David C. et al. :
Application No. 10/148,511 :
Receipt Date: 29 November 2000 : NOTIFICATION
Docket No.: 032901.0001-IV :
For: METHODS, SYSTEMS AND :
APPARATUSES FOR SECURE :
TRANSACTIONS :

This application is before the Office of PCT Legal Administration for matters arising under 35 U.S.C. §371.

BACKGROUND

On 29 November 2000, applicant filed international application PCT/US00/42323, which claimed a priority date of 30 November 1999. A demand for international preliminary examination was filed on 27 June 2001. The thirty month period for paying the basic national fee expired at midnight on 30 May 2002.

On 30 May 2002, applicant filed five transmittal letters for entry into the national stage in the United States, accompanied by, *inter alia*, the basic national fee. The files were assigned serial number 10/148,510; 10/148,511; 10/148,512; 10/148,610 and 10/148,611. Application 10/148,512 proceeded as the national stage of PCT/US00/42323.

DISCUSSION

As is evident from the above recited facts, five sets of papers to enter the national stage were submitted for international application number PCT/US00/42323 (United States application numbers 10/148,510; 10/148,511; 10/148,512; 10/148,610 and 10/148,611). The end result for an international application designating the United States of America is a single U.S. national stage application. Therefore, the submission of five sets of national stage papers to enter the United States was improper.

Applicant has also submitted substitute specifications with four of the applications (10/148,510; 10/148,511; 10/148,610 and 10/148,611). If applicant wishes that this application proceed as a utility application, applicant must file a petition under 37 CFR 1.182. In the absence of such petition, this application will be withdrawn.

CONCLUSION

A proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Failure to timely file the proper response will result in the withdrawal of this application. Such response should include a cover letter entitled "Petition Under 37 CFR 1.182."

Applicant is advised that, effective May 1, 2003, the Office is changing its correspondence address. Any further correspondence with respect to this matter deposited with the United States Postal Service on or after May 1, 2003 should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, Attention: Erin Pender, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Any further correspondence with respect to this matter should be addressed to the Commissioner for Patents, Attention: Erin Pender, Box PCT, Washington, D.C. 20231, with the contents of this letter marked to the attention of the Office of PCT Legal Administration.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

ED 2003

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

KNOBBE, MARTENS, OLSEN & BEAR, LLP
2040 Main Street
Fourteenth Floor
Irvine, CA 92614

In re Application of :
TOIS, Eva *et al* :
Application No.: 10/148,525 :
PCT No.: PCT/FI00/01072 : **DECISION**
Int. Filing Date: 04 December 2000 :
Priority Date Claimed: 03 December 1999 :
Attorney Docket No.: SEPP21.001APC :
For: METHOD OF GROWING OXIDE FILMS :

This decision is in response to applicants' "Petition Under 37 CFR 1.182 to Change Inventor's Name" filed 27 December 2002.

BACKGROUND

On 06 August 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee pursuant to 37 CFR 1.492(e) must be provided. Applicants were given two months to respond with extensions of time available under 37 CFR 1.136(a).

On 27 August 2002, applicants filed an executed declaration. However, the name of the first named inventor was listed as TOIS, Eva on the declaration while it is listed on the international publication ("WO 01/40541") as ARO, Eva.

On 28 October 2002, the DO/EO/US mailed a Notification of a Defective Response (Form PCT/DO/EO/916) indicating that the declaration submitted on 27 August 2002 was not in compliance with 37 CFR 1.497(a) and (b) because applicants did not provide documentation to support the co-inventor's name change.

On 21 October 2002, applicants filed the instant petition which was accompanied by, *inter alia*, an "Affidavit of Eva Tois in Support of her Petition Under 37 CFR §1.182," and a three-month extension request and $920.00 fee.

DISCUSSION

Section 605.04(c), *Inventor Changes Name*, of the Manual of Patent Examining Procedure (MPEP) lists the procedures required to change the name of an inventor and states, in part:

The petition must include an appropriate petition fee and an affidavit signed with both names and setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

In the "Affidavit of Eva Tois in Support of her Petition Under 37 CFR §1.182," both names were listed and signed by the first named co-inventor. The reason for the change of the surname was listed as due to marriage. This is sufficient to satisfy the requirements for a grantable petition. The petition fee of $130.00 and three-month extension fee of $920.00 have been paid.

CONCLUSION

For the reasons listed above, applicants' petition under 37 CFR 1.182 is hereby **GRANTED**.

Accordingly, the declaration filed 27 August 2002 complies with the requirements of 37 CFR 1.497(a) and (b).

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 04 December 2000, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 27 August 2002.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

UNITED STATES 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.

R. Lewis Gable
COWAN LIEBOWITZ & LATMAN
1133 Avenue of the Americas
New York, NY 10036-6799

MAILED

MAY 3 1 2006

Technology Center 2100

In re Application of:
Ira Spector
Application No. 10/148,536
Filed: May 29, 2002
For: APPARATUS AND METHOD OF UPLOADING AND DOWNLOADING ANONYMOUS DATA TO AND FROM A CENTRAL DATABASE BY USE OF A KEY FILE

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed May 08, 2006.

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

The request filed May 08, 2006 meets all the requirements. Accordingly the request is **GRANTED**.

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

for James R. Matthews

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
(571) 272-3595

cc: Ira Spector
300 Old Country Road, Suite 201
Mineola, NY 11501

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : July 31, 2007

TO SPE OF : ART UNIT 1617

SUBJECT : Request for Certificate of Correction for Appl. No./10/148553 patent no.7074778

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SREENI PADMANABHAN
SUPERVISORY PATENT EXAMINER
SPE

1617
Art Unit

27 JAN 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

Oblon Spivak McClelland Maier & Neustadt, PC
1940 Duke Street
Alexandria, VA 22314

In re Application of
GRIMM, Sabine et al.
Application No.: 10/148,580
PCT No.: PCT/FR01/03050
Int. Filing Date: 03 October 2001
Priority Date: 03 October 2000
Attorney Docket No.: 222170US0PCT
For: USE FOR MAKE-UP ... PIGMENT

DECISION ON

PETITION

UNDER 37 CFR 1.181

This decision is in response to applicant's "Petition Under 37 C.F.R. 1.181 to Withdraw Holding Of Abandonment," filed with the United States Patent and Trademark Office on 28 November 2003.

BACKGROUND

On 03 October 2001, applicant filed international application PCT/FR01/03050. A copy of the international application was transmitted by the International Bureau on 11 April 2002. The deadline for entry into the national stage in the United States was twenty months from the priority date, or 03 April 2003.

On 03 June 2002, applicant submitted a transmittal letter for entry into the national stage in the United States, along with a translation, the basic national fee and a preliminary amendment.

On 02 August 2002, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 30 September 2003, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909) indicating that the application went abandoned for failure to respond to the Notification of Missing Requirements.

On 28 November 2003, applicant filed the instant petition under 37 CFR 1.181, accompanied by, *inter alia*, a postcard receipt and a declaration.

DISCUSSION

MPEP at section 503 states, in part:

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

The postcard receipt lists, *inter alia*, a declaration. The postcard receipt is date stamped and indicates the applicant, the docket number and the title of the application. The postcard receipt is not annotated to indicate that any of the items were not received.

The postcard receipt is adequate evidence that the declaration was received on 29 November 2002.

The petition states that the papers enclosed are a copy of the 29 November 2002 submission and the statement is signed by someone registered to practice before the office.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Acceptance (Form PCT/DO/EO/903) and filing receipt. The 35 U.S.C. §371(c) date is 29 November 2002.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 703-305-0455
Facsimile: 703-308-6459

13 APR 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

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 New York Avenue, NW
Washington, DC 20001-4413

In re Application of :
SEPPALA, Kari :
Application No.: 10/148, 595 :
PCT No.: PCT/FI00/01078 : **DECISION**
Int. Filing Date: 07 December 2000 :
Priority Date: 07 December 1999 :
Attorney Docket No.: 06267.0090 :
For: MULTIDOSE POWDER INHALER :

This decision is in response to applicants' "Request for Corrected Filing Receipt" filed 28 April 2003 and "Second Request for Corrected Filing Receipt" filed via facsimile on 12 January 2005 which are treated under 37 CFR 1.181 and hereby **GRANTED** as follows:

Applicants claim that the filing receipt omitted priority information on the international application.

A review of the Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) and filing receipt mailed 28 March 2003 indicates that no priority date was awarded for PCT/FI00/01078. But the international publication ("WO 01/41850") for PCT/FI00/01078 shows that the international application claimed priority to Finnish patent application no. 19992620 filed 07 December 1999. The declaration filed 01 October 2002 also claimed this priority.

Accordingly, the Form PCT/DO/EO/903 and filing receipt mailed 28 March 2003 are not correct. They are both hereby **VACATED**.

A corrected filing receipt will be mailed with this decision. This application is being forwarded to the DO/EO/US to mail a corrected Form PCT/DO/EO/903 indicating the correct priority information. The application will be forwarded to Technology Center 3700 for further processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

29 JUL 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Karel Mojzis
Georg-Stegschuster-Strasse 12
85375 Neufahrn
Germany

In re Application of MOJZIS
U.S. Application No.: 10/148,598
Int. Application No.: PCT/EP00/12054
Int. Filing Date: 30 November 2000
Priority Date: 06 December 1999
For: TRAVELLING MECHANISM FOR AN OVERHANGING WORKING DEVICE, ESPECIALLY FOR A BUILDING CRANE

Dear Karel Mojzis:

You are named as the inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 118. Should a patent be granted, you will be designated as the inventor.

As the 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 set forth in 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you choose 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.

Bryan Tung
PCT Legal Examiner
PCT Legal Office
Telephone: 703-308-6614
Facsimile: 703-308-6459

Banner & Witcoff, Ltd.
1001 G Street, N.W., 11th Floor
Washington, DC 20001

Attorney Docket No.: 004695.00001

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Banner & Witcoff, Ltd.
1001 G Street, N.W., 11th Floor
Washington, DC 20001

In re Application of MOJZIS	:	
U.S. Application No.: 10/148,598	:	
Int. Application No.: PCT/EP00/12054	:	DECISION ON PETITION
Int. Filing Date: 30 November 2000	:	
Priority Date: 06 December 1999	:	UNDER 37 CFR 1.47(b)
Attorney Docket No.: 004695.00001	:	
For: TRAVELLING MECHANISM FOR AN OVERHANGING WORKING DEVICE, ESPECIALLY FOR A BUILDING CRANE	:	

This is in response to applicant's "Request for Reconsideration" filed 16 July 2003, which is being treated as a renewed petition under 37 CFR 1.47(b).

BACKGROUND

On 30 November 2000, applicant filed international application PCT/EP00/12054, which claimed priority of an earlier Germany application filed 06 December 1999. A copy of the international application was communicated to the USPTO from the International Bureau on 21 June 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 28 June 2001, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 06 June 2002.

On 03 June 2002, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the requisite basic national fee required by 35 U.S.C. 371(c)(1).

On 06 August 2002, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 05 March 2003, applicant filed a petition under 37 CFR 1.47(b).

On 16 May 2003, this Office mailed a decision dismissing the 05 March 2003 petition.

On 16 July 2003, applicant filed the present renewed petition under 37 CFR 1.47(b).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(i), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage. See 37 CFR 1.47(b).

Applicant has previously satisfied items (1), (5), and (6) above.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

The renewed petition states that the sole inventor Karel Mojzis refuses to sign the application papers. Applicant has sufficiently demonstrated that a bona fide attempt was made to present a copy of the application papers to Mojzis for signature (see 16 July 2003 affidavit of

Hans-Jorg Banzer, ¶¶2-3). Furthermore, applicant has adequately illustrated that Mojzis refuses to sign. Specifically, Mojzis made an express oral refusal to cooperate (see 18 February 2003 affidavit of Hans-Jorg Banzer, ¶¶2-3). In addition, Mojzis has not responded to the letter sent to him within the time period set therein. Thus, it can be concluded with reasonable certainty that Mojzis refuses to join in the application.

With regard to item (3) above, the renewed petition states the last known address of the nonsigning inventor.

With regard to item (4) above, an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor has been provided.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.47(b) is GRANTED.

This application has an international filing date of 30 November 2000 and a date under 35 U.S.C. 371(c) of 16 July 2003.

As set forth in 37 CFR 1.47(b), a notice of the filing of this application will be forwarded to the nonsigning inventor at the last known address of record and will be published in the *Official Gazette*.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MAY 26 2009

OFFICE OF PETITIONS

BANNER & WITCOFF LTD
1100 13th STREET NW
SUITE 1200
WASHINGTON DC 20005-4051

In re Application of :
Karel Mojzis :
Application No. 10/148,598 : ON PETITION
Filed: July 16, 2003 :
Attorney Docket No. 004695.00001 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 19, 2006, to revive the above-identified application. The petition was recently forwarded to the Office of Petitions for consideration.

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

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

The above application became abandoned for failure to timely file a reply to the non-final Office action mailed June 15, 2005. This Office action set a shortened statutory period for reply of one (1) month. No reply having been received, the application became abandoned on July 16, 2005. The Office mailed a Notice of Abandonment on December 29, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. **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 37 CFR 1.20(d)) required by 37 CFR 1.137(d).

The instant petition lacks item (3).

Petitioner asserts that the entire period of delay was unintentional. However, on the Notice of Abandonment mailed December 29, 2005, the Examiner indicated that he spoke to applicant in a telephone interview held on December 18, 2005, at which time applicant stated that he had decided to abandon the application.

Petitioner has filed a Power of Attorney with the instant petition, executed by the Assignee. However, the Power of Attorney was not accompanied by a 37 CFR 3.73(b) statement. Accordingly, the Power of Attorney has not been entered at this time. Future correspondence concerning this application will be mailed to the above address of record until such time as appropriate instructions are received to the contrary. A courtesy copy of this decision is being forwarded to the address on the petition.

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

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

cc: Michael J. Striker
103 East Neck Rd
Huntington, New York 11743

27 OCT 2005

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Sughrue Mion, PLLC
2100 Pennsylvania Avenue
Suite 800
Washington, D.C. 20037-3213

In re Application of
OHMOTO et al.
Application No.: 10/148,612
PCT No.: PCT/JP00/08514
Int. Filing Date: 01 December 2000
Priority Date: 03 December 1999
Atty. Docket No.: Q70371
For: AN OXADIAZOLE DERIVATIVE AND AN AGENT COMPRISING ITS DERIVATIVE AS ACTIVE INGREDIENT

DECISION ON PETITION

This decision is in response "Submission of Sworn Certified English Translation" filed 14 September 2005 which is being treated as a Petition under 37 CFR 1.181.

BACKGROUND

On 01 December 2000, applicants filed international application PCT/JP00/08514 which claimed a priority date of 03 December 1999. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 21 June 2001. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 03 June 2002.

On 31 May 2002, applicants filed a Transmittal Letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. 371. Filed with the Transmittal Letter were, *among others*, the requisite basic national fee; a purported translation of the international application; and a preliminary amendment.

On 29 July 2002, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 21 August 2002, applicants filed an executed declaration.

On 30 October 2002, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371

AND 37 CFR 1.494 OR 1.495" (Form PCT/DO/EO/903) which set forth a 35 U.S.C. 371 completion date of 21 August 2002.

In a Notification dated 15 July 2005, the Office of PCT Legal Administration indicated that the translation of the international application filed 31 May 2002 was not in compliance with 35 U.S.C. 371(c) and that the Notification of Acceptance of Application mailed 30 October 2002 was vacated.

In response the Notification dated 15 July 2005, applicants filed "Submission of Sworn Certified English Translation" on 14 September 2005.

DISCUSSION

As stated in the previous notification dated 15 July 2005, a review of the application file and other Patent and Trademark Office record reveals that the requirements of 35 U.S.C. 371(c) for entry into the national stage in the United States of America have not been completed as indicated in the Notification of Acceptance mailed by the DO/EO/US on 30 October 2002. Specifically, the translation of the international application filed 31 May 2002 was not an identical translation in accordance with 35 U.S.C. 371(c)(2).

With the filing of the new translation of International PCT application PCT/JP00/08514 on 14 September 2005, the above-identified application will be given an international filing date of 01 December 2000 under 35 U.S.C. 363, and a date of 14 September 2005 under 35 U.S.C. 371(c)(1), (c)(2), and(c)(4).

CONCLUSION

Applicants' request to accept the translation of the international application under 35 U.S.C. 371, filed 14 September 2005, is **GRANTED**.

This application will be forwarded to the United States Designated/Elected Office (DO/EO/US) for mailing of a NOTIFICATION OF ACCEPTANCE OF APPLICATION (Form PCT/DO/EO/903) which identifies a date of 14 September 2005 under U.S.C. 371 371(c)(1), (c)(2), and(c)(4).

Group Art Unit 1646 will be notified of this decision.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: 571-272-3298
Fax: 571-273-0459

10 FEB 2004

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Orontes Corporation
2600 Michelson Drive
17th Floor
Irvine, CA 92612

In re Application of ALDENDESHE	:	
U.S. Application No.: 10/148,618	:	
PCT Application No.: PCT/US00/31741	:	DECISION
Int. Filing Date: 17 November 2000	:	
Priority Date Claimed: 08 December 1999	:	
Attorney Docket No.: (none)	:	
For: HYBRID ELECTRIC POWER GENERATOR AND METHOD FOR GENERATING ELECTRIC POWER	:	

This is in response to applicant's request for refund filed 23 December 2003.

A review of USPTO records reveals that two United States national stage applications based on international application PCT/US00/31741 were created (U.S. application numbers 10/148,618 and 10/149,538). The submission of two sets of national stage papers was improper, and therefore U.S. application number 10/149,538 has been cancelled. USPTO fee records indicate that applicant submitted two separate payments of $439.00 for the basic national fee.

Accordingly, applicant's request for a refund of the fees paid for U.S. application number 10/149,538 is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including refunding $439.00 by check payable to Orontes Corporation, 2600 Michelson Drive, 17th Floor, Irvine, CA 92612.

Bryan Tung
PCT Legal Examiner
Office of PCT Legal Administration

Telephone: 703-308-6614
Facsimile: 703-308-6459

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BIRCH STEWART KOLASCH & BIRCH
P.O. BOX 747
FALLS CHURCH VA 22040-0747

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Naoki Takagi et al
Application No. 10/148,635
Filed: June 4, 2002
Attorney Docket No. 0152-0599P

This is a decision on the petition, filed November 16, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 15, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1773 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).

#6

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12 AUG 2003

Steven J. Grossman
Grossman Tucker Perreault & Pfleger
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795 Elm Street
Manchester, NH 03101

In re Application of RISCA et al.
Application No.: 10/148,653
PCT No.: PCT/US00/32684
Int. Filing: 30 November 2000
Priority Date: 30 November 1999
Attorney Docket No.: MWT M4053
For: SPACE UTILIZATION/COMPONENT INTEGRATION USING BLOW MOLDING TECHNOLOGY

: DECISION ON PETITION : UNDER 37 CFR 1.47(a)

This is a decision on applicant's "Response to Notification of Missing Requirements under 35 USC 371 in the DO/EO/US", including a petition under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 24 April 2003 and "Second Petition under 37 CFR 1.47(a)" filed on 21 May 2003. Applicant also requests a four month extension of time, which is granted.

BACKGROUND

On 24 October 2002, a Notification of Missing Requirements (FORM PCT/DO/EO/905) was mailed to applicant indicating that an oath or declaration executed by the inventors and a surcharge for filing the oath or declaration after the thirty month period was required.

On 24 April 2003, in response to the Notification of Missing Requirements, applicant filed a petition under 37 CFR 1.47 in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4). The petition requested the acceptance of the application without the signatures of joint inventors Guy J. Hery, Bob Burnham and Mike Duco on the grounds that the nonsigning inventors were unavailable or refused to execute the declaration.

On 21 May 2003, applicants filed a "Second Petition under 37 CFR 1.47(a)" with a declaration signed by previously unavailable non-signing inventor, Bob Burnham.

DISCUSSION

With the submission of the declaration executed by joint inventor Bob Burnham on 21 May 2003, the petition under 37 CFR 1.47(a) with respect to Mr. Burnham is moot.

A petition under 37 CFR §1.47(a) must be accompanied by (1) the fee under 37 CFR §1.17(h), (2) factual proof that the non-signing joint inventor(s) refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the non-signing inventor(s), and (4) an oath or declaration by each available joint inventor on his or her own behalf and on behalf of the non-signing joint inventor(s).

Item (1) is satisfied with the $130 petition fee charged to applicant's deposit account per their authorization. With regard to item (4), the declarations were executed by the available joint inventors on their behalf and on behalf of the non-signing inventors and satisfies the requirements of 37 CFR 1.47(a). Item (3) is satisfied because the last known addresses of non-signing inventors, Guy J. Hery and Mike Duco were provided.

With respect to item (2), Section 409.03(d) of the Manual of Patent Examining Procedure (MPEP), Proof of Unavailability or Refusal, states, in part:

> 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 fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 CFR 1.47.
> ....
>
> 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. It is important that the statement contain facts as opposed to conclusions.
>
> ...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.
> ....
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the 37 CFR 1.47 applicant that a

> nonsigning inventor's conduct constitutes a refusal, all facts upon which the conclusion is based should be stated in a statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Here, Petitioner submitted a petition including a statement of facts under 37 CFR 1.47(a) outlining the actions performed in an attempt to obtain the signatures of the nonsigning inventors.

With respect to Mr. Hery, counsel advises that he received information from a co-inventor that Guy J. Hery now resides in France and obtained a possible email address for Mr. Hery. An email was sent to Mr. Hery (copy attached to petition), which went unanswered. According to counsel, "[t]he email was marked to notify the sender when the receiver opened the email. No such notice of the receiver opening the email was received."

Further, an attempt to deliver "a complete copy of the entire application" to the nonsigning inventor for signature failed. The package was sent to Mr. Hery's last known address via USPS Express Mail and was returned to the sender as undeliverable. However, it is noted that the Express Mail mailing label bore the handwritten notation "No Such Number" next to the delivery address. The mailing label was directed to an incorrect street number (2759, rather than 2795 as the last known address is noted in the petition). Petitioner does not explain why a second attempt at delivery to the correct last known address was not made.

Counsel also indicates that an internet search was conducted to locate Mr. Hery. However, counsel indicates that the attempts were limited to a search for Mr. Hery in the United States. A search limited to the United States only is insufficient when petitioner was advised that Mr. Hery may now reside in France. No further attempts to locate Mr. Hery are enumerated so as to conclude that he cannot be found. The evidence is insufficient to conclude that applicant/inventor has refused to sign the application or cannot be located.

Petitioner should attempt to deliver a copy of the application (including specification, claims and drawings) to the correct last known address and to determine if the inventor left a forwarding address. There is no documentation that further attempts to contact Mr. Hery at his last known e-mail address and last known telephone number were made. There is no evidence that attempts were made using the telephone to locate Mr. Hery and no inquiries made at Mr. Hery's last known place of employment and last known residence to ascertain his current address. Further attempts to contact Mr. Hery via telephone, E-mail, his place of employment, etc. should be tried and documented. The steps taken to locate the whereabouts of the nonsigning inventor should be included in a statement of facts. The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts, listing the steps taken to locate the whereabouts of the nonsigning inventor. What is required is that Mr. Hery be presented with a copy of all of the national stage application papers (oath and declaration, specification, including claims and drawings) for this application as identified above.

With regard to Mike Duco's refusal to sign the application, counsel states from first hand knowledge, that a telephone call was placed to Mr. Duco in Fraser, Michigan. Mr. Duco provided a current address to counsel. Copies of the "documents" were sent to Mr. Duco via Federal Express on 27 February 2003 and were signed for by "R. Duco". Counsel states that "[t]he documents were not returned as requested and numerous telephone calls to Mr. Duco have remained unanswered." However, there is no indication of which documents were sent to Mr. Duco; a copy of the application papers (specification, including claims, drawings, and oath or

declaration) should be sent to the nonsigning inventor for his signature.

A copy of the letter to inventor Duco was not provided that indicated a copy of application papers (specification, including claims, drawings, and oath or declaration) was sent to the nonsigning inventor for his signature. In this instance, R. Duco signed for the delivered documents at the address given by Mr. Duco to counsel, as indicated by the delivery notice included with the petition. Counsel states that Mr. Duco has not responded to his request to sign the documents. However, there is no evidence that a copy of the declaration, along with a copy of the application including specification, claims and drawings, was mailed to Mr. Duco on February 27, 2003 at last known residence, requesting his signature. Under these circumstances, it cannot be concluded that Mr. Duco refuses to sign the application or is uncooperative. What is required is that Mr. Duco be presented with a copy of all of the national stage application papers (oath and declaration, specification, including claims and drawings) for this application as identified above.

In sum, petitioner has not demonstrated: (1) a *bona fide* attempt was made to present a copy of the application papers for U.S. application 10/148,653 (specification, including claims, drawings, and declaration) to the nonsigning inventors for their signatures, sent to their last known address and (2) Messrs. Hery and Duco's refusal to sign, either in writing or by telephone, these documents, their uncooperativeness or their unavailability.

The evidence submitted does not support a finding that the nonsigning inventors refuse to sign the application or are unavailable for the reasons set forth above. Accordingly, it is inappropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

The renewed petition under 37 CFR 1.47(a) with respect to Bob Burnham is **MOOT**. The declaration executed by Mr. Burnham is acceptable under 37 CFR 1.497(a) & (b). The petition under 37 CFR §1.47(a) is **DISMISSED WITHOUT PREJUDICE**.

Any reconsideration on the merits of the petition under 37 CFR §1.47(a) must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR §1.47(a)." No petition fee is required. Any further extensions of time available may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467

2 FEB 2004

#8

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Steven J. Grossman
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Suite 604
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Manchester, NH 03101

In re Application of RISCA et al.	
Application No.: 10/148,653	
PCT No.: PCT/US00/32684	DECISION ON
Int. Filing: 30 November 2000	
Priority Date: 30 November 1999	RENEWED PETITION
Attorney Docket No.: MWT M4053	
For: SPACE UTILIZATION/COMPONENT INTEGRATION USING BLOW MOLDING TECHNOLOGY	UNDER 37 CFR 1.47(a)

This is a decision on applicant's "Renewed Petition under 37 CFR 1.47(a)", filed in the United States Patent and Trademark Office (USPTO) on 08 October 2003.

BACKGROUND

On 24 October 2002, a Notification of Missing Requirements (FORM PCT/DO/EO/905) was mailed to applicant indicating that an oath or declaration executed by the inventors and a surcharge for filing the oath or declaration after the thirty month period was required.

On 24 April 2003, in response to the Notification of Missing Requirements, applicant filed a petition under 37 CFR 1.47 in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4). The petition requested the acceptance of the application without the signatures of joint inventors Guy J. Hery, Bob Burnham and Mike Duco on the grounds that the nonsigning inventors were unavailable or refused to execute the declaration.

On 21 May 2003, applicants filed a "Second Petition under 37 CFR 1.47(a)" with a declaration signed by previously unavailable non-signing inventor, Bob Burnham. On 12 August 2003, a decision dismissing applicant's petition was mailed indicating that petitioner had not adequately demonstrated Messrs. Hery and Duco's refusal to sign these documents.

DISCUSSION

A petition under 37 CFR §1.47(a) must be accompanied by (1) the fee under 37 CFR §1.17(h), (2) factual proof that the non-signing joint inventor(s) refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the non-signing inventor(s), and (4) an oath or declaration by each available joint inventor on his or her own behalf and on behalf of the non-signing joint inventor(s).

Applicant previously satisfied Items (1), (3) and (4).

Petitioner submitted a renewed petition including a statement of facts under 37 CFR 1.47(a) outlining the actions performed in an attempt to obtain the signatures of the nonsigning inventors.

With respect to Guy Hery's refusal to sign the application, counsel states that on 15

September 2003, he sent via overnight delivery "a complete copy of the application papers including specification, claims and drawings, a Declaration/Power of Attorney..." to Mr. Hery's last known address. A copy of the letter that accompanied the documents is attached to the petition as well as a copy of the Federal Express Tracking Shipping statement. The statement indicates that the package was delivered on 18 September 2003 and was signed for by "Mme Hery". Petitioner has demonstrated his attempt to deliver a copy of the application (including specification, claims and drawings) to the correct last known address of Mr. Hery.

With regard to Mike Duco's refusal to sign the application, counsel stated that on 15 September 2003, he placed a telephone call to the residence of Mike Duco. Mr. Duco's wife answered the telephone and was told that counsel was sending the documents for Mr. Duco's signature. On 15 September 2003, an overnight package containing a complete package of the application papers including specification, claims and drawings and a Declaration/Power of Attorney was forwarded via US Postal Service Express Mail to Mr. Duco in Fraser, Michigan. A copy of the letter sent to Mr. Duco accompanied the petition along with a copy of the USPS "Track and Confirm" statement indicating delivery on 16 September 2003.

Counsel states that "a bona fide attempt was made to present a copy of the application papers for U.S. application 10/148, 653 (specification, including claims, drawings and declaration) to Guy Hery and Mike Duco for their signatures, sent to their last known addresses and Guy Hery and Mike Duco are uncooperative and have refused to sign these documents." The evidence submitted supports a finding that the nonsigning inventors refuse to sign the application for the reasons set forth above. Mr. Grossman's statement satisfies Item (3) above.

Petitioner has satisfied the requirements of 37 CFR 1.47(a). Accordingly, it is appropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

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

The U.S. Designated/Elected Office is authorized to accept the application as a 37 CFR 1.47(a) application using the declaration filed 24 April and 21 May 2003. The application has an international filing date of 30 November 2000 under 35 U.S.C. 363, and a date of 21 May 2003 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventors at their respective last known address of record. Also, a notice of the filing of this application will be published in the Official Gazette.

The application is being returned to the Publications Branch for processing.

/Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: 703-206-5467
Facsimile: 703-308-6459

2 FEB 2004

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GUY HERY
RESIDENCE DU PARC #1ALLEE DES PLATANES
ANNECY-LE-VIEUX
FRANCE 74940

In re Application of RISCA et al.	:
Application No.: 10/148,653	:
PCT No.: PCT/US00/32684	: DECISION ON
Int. Filing: 30 November 2000	:
Priority Date: 30 November 1999	:RENEWED PETITION
Attorney Docket No.: MWT M4053	:
For: SPACE UTILIZATION/COMPONENT INTEGRATION USING BLOW MOLDING TECHNOLOGY	:UNDER 37 CFR 1.47(a)

Dear Mr. Hery:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. § 116. Should a patent be granted, you will be designated as an inventor.

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

Cynthia M. Kratz
Attorney Advisor
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Steven J. Grossman
Grossman Tucker Perreault & Pfleger
Suite 604
795 Elm Street
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2 FEB 2004

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MIKE DUCO
17139 PARK LANE
FRASER, MICHIGAN 48026

In re Application of RISCA et al.
Application No.: 10/148,653
PCT No.: PCT/US00/32684
Int. Filing: 30 November 2000
Priority Date: 30 November 1999
Attorney Docket No.: MWT M4053
For: SPACE UTILIZATION/COMPONENT INTEGRATION USING BLOW MOLDING TECHNOLOGY

DECISION ON

RENEWED PETITION

UNDER 37 CFR 1.47(a)

Dear Mr. Duco:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. § 116. Should a patent be granted, you will be designated as an inventor.

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

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2 FEB 2004

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PERREAULT & PFLEGER, PLLC

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In re Application of RISCA et al.
Application No.: 10/148,653
PCT No.: PCT/US00/32684
Int. Filing: 30 November 2000
Priority Date: 30 November 1999
Attorney Docket No.: MWT M4053
For: SPACE UTILIZATION/COMPONENT INTEGRATION USING BLOW MOLDING TECHNOLOGY

DECISION ON

RENEWED PETITION

UNDER 37 CFR 1.47(a)

This is a decision on applicant's "Renewed Petition under 37 CFR 1.47(a)", filed in the United States Patent and Trademark Office (USPTO) on 08 October 2003.

BACKGROUND

On 24 October 2002, a Notification of Missing Requirements (FORM PCT/DO/EO/905) was mailed to applicant indicating that an oath or declaration executed by the inventors and a surcharge for filing the oath or declaration after the thirty month period was required.

On 24 April 2003, in response to the Notification of Missing Requirements, applicant filed a petition under 37 CFR 1.47 in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4). The petition requested the acceptance of the application without the signatures of joint inventors Guy J. Hery, Bob Burnham and Mike Duco on the grounds that the nonsigning inventors were unavailable or refused to execute the declaration.

On 21 May 2003, applicants filed a "Second Petition under 37 CFR 1.47(a)" with a declaration signed by previously unavailable non-signing inventor, Bob Burnham. On 12 August 2003, a decision dismissing applicant's petition was mailed indicating that petitioner had not adequately demonstrated Messrs. Hery and Duco's refusal to sign these documents.

DISCUSSION

A petition under 37 CFR §1.47(a) must be accompanied by (1) the fee under 37 CFR §1.17(h), (2) factual proof that the non-signing joint inventor(s) refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the non-signing inventor(s), and (4) an oath or declaration by each available joint inventor on his or her own behalf and on behalf of the non-signing joint inventor(s).

Applicant previously satisfied Items (1), (3) and (4).

Petitioner submitted a renewed petition including a statement of facts under 37 CFR 1.47(a) outlining the actions performed in an attempt to obtain the signatures of the nonsigning inventors.

With respect to Guy Hery's refusal to sign the application, counsel states that on 15

September 2003, he sent via overnight delivery "a complete copy of the application papers including specification, claims and drawings, a Declaration/Power of Attorney..." to Mr. Hery's last known address. A copy of the letter that accompanied the documents is attached to the petition as well as a copy of the Federal Express Tracking Shipping statement. The statement indicates that the package was delivered on 18 September 2003 and was signed for by "Mme Hery". Petitioner has demonstrated his attempt to deliver a copy of the application (including specification, claims and drawings) to the correct last known address of Mr. Hery.

With regard to Mike Duco's refusal to sign the application, counsel stated that on 15 September 2003, he placed a telephone call to the residence of Mike Duco. Mr. Duco's wife answered the telephone and was told that counsel was sending the documents for Mr. Duco's signature. On 15 September 2003, an overnight package containing a complete package of the application papers including specification, claims and drawings and a Declaration/Power of Attorney was forwarded via US Postal Service Express Mail to Mr. Duco in Fraser, Michigan. A copy of the letter sent to Mr. Duco accompanied the petition along with a copy of the USPS "Track and Confirm" statement indicating delivery on 16 September 2003.

Counsel states that "a bona fide attempt was made to present a copy of the application papers for U.S. application 10/148, 653 (specification, including claims, drawings and declaration) to Guy Hery and Mike Duco for their signatures, sent to their last known addresses and Guy Hery and Mike Duco are uncooperative and have refused to sign these documents." The evidence submitted supports a finding that the nonsigning inventors refuse to sign the application for the reasons set forth above. Mr. Grossman's statement satisfies Item (3) above.

Petitioner has satisfied the requirements of 37 CFR 1.47(a). Accordingly, it is appropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

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

The U.S. Designated/Elected Office is authorized to accept the application as a 37 CFR 1.47(a) application using the declaration filed 24 April and 21 May 2003. The application has an international filing date of 30 November 2000 under 35 U.S.C. 363, and a date of 21 May 2003 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventors at their respective last known address of record. Also, a notice of the filing of this application will be published in the Official Gazette.

The application is being returned to the Publications Branch for processing.

/Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: 703-206-5467
Facsimile: 703-308-6459

IMaBul 2834

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OIPE JC35 JAN 3 0 2004 PATENT & TRADEMARK OFFICE

Agent's Docket N. 35962/RI/rf

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE OF PETITION

In re application of:		)
Applicant:	Franco NERI	)
Ser. No.:	10/148,670	) Group Art Unit: 2834
Filed:	June 3, 2002	) Examiner: COMAS, Yahveh

Assistant Commissioner for Patents – **Mail Stop PETITION**
Washington D.C. 20231 USA

REQUEST FOR RECONSIDERATION OF HOLDING OF ABANDONMENT

(MPEP 711.03)

Sir,

Receipt is hereby acknowledged of the Notice of Abandonment dated December 19, 2003 **received by the undersigned agent on January 22, 2004**, which purports that the application has been abandoned owing to applicant's failure to timely file a proper response to the Office Action dated 04/30/2003.

Applicant respectfully requests reconsideration of the holding of abandonment based on failure to receive Office Action and because **there is no abandonment in fact.**

Attention of the Examiner is drawn to the following facts:

- In response to the Office Action mailed on 01/17/2003 Applicant timely sent to the United States Patent and Trademark Office by fax a reply on 04/15/2003, (hereinafter referred to as **"AMENDMENT"**) duly executed by one of the Agents of record.

- Attached hereto, as **EXHIBIT A, is the Office Action mailed 01/17/2003 and marked on the last page 5 with the initials of the Examiner YC and the date "January 13, 2003"**

- Also attached, as **EXHIBIT B, is a photocopy of the original AMENDMENT** executed by the agent of applicant, and sent via telefax on 04/15/2003 to the Office, and **including a photocopy of the original "TRANSMISSION RESULT REPORT"** for such original AMENDMENT indicating the date ("15 Apr.") and time (17:53 hours local Milan time) of facsimile transmission, the telephone number transmitted to ("ADDRESS" – 703 305 3432), the duration of transmission ("TIME" – 1'25") the number of pages sent ("PAGE" - 6), and the result ("RESULT" - OK) of the transmission.
  The **AMENDMENT-EXHIBIT B** appears to have been forwarded to the Examiner on 04/28/2003, i.e. **13 days after it was effectively received by the Office** (see entry 12 in the PAIR status information Database).
  In the **AMENDMENT –EHIBIT B** the objected claims have been amended to obviate the objection to the Drawings, new claims 9-12 have been submitted and the anticipation by the prior document to Bevington was traversed in view of the filing date of such document which is subsequent to the priority date of the application.
  Such AMENDMENT has however never been formally entered and responded.

- Further attached, as **EXHIBIT C** is a further Office Action, to which the Notice of Abandonment in fact referes, with printed on the front page "DATE MAILED 04/30/2003" and on last page 5, the initials of the Examiner YH and the date April 23, 2003. The Office Action was entered in the PAIR status list (entry 13) on 04/28/2003, i.e. the same day on which the formal response to the first Office Action **EXHIBIT B** appears forwarded to the Examiner.
  It is submitted that the further Office Action, mailed 04/30/2003, contains in fact the same objections and rejections as the first Office Action **(EXHIBIT A)** i.e. it is "Responsive

to communication of 6/3/2002". Hence the further Office Action **completely neglects and does not address any of the issues comprised in the AMENDMENT (EXHIBIT B). The Amendment, though duly filed and received has never been entered and responded to.**

- On July 22, 2003 the Examiner Mr. Comas Yahveh was contacted by the Office of the undersigned Agents through telephone and informed on the circumstances. It has been established, upon consulting the Primary Examiner, to consider the interview as a formal response made in time by the Applicant, i.e. within the 3-month term.. A new Office Action would thereafter have been issued by the Office entering the neglected **AMENDMENT** and establishing a new term for a possibly necessary response.

However, no new Office Action was ever received by the Applicant the application being deemed abandoned.

In view of the showings of the **EXHIBITS A-C** and of the information set forth above, regarding the lack of entry and consideration of the duly filed **AMENDMENT** by way a new Office Action, all hereby attested by the undersigned agent, it is believed that this request for reconsideration of holding of abandonment based upon failure to receive Office Action (in view of Delgar v. Schuyler, 172 USPQ 513 (D.D.C. 1971) as applicable for failure to prosecute) is justified and should be accepted by the USPTO.

It is respectfully requested that the AMENDMENT (EXHIBIT B) be entered and fully considered by the Examiner.

I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true and further that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section

1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully submitted,

Guido MODIANO (Reg. No. 19,928)
Agent for the Applicant

Date: January 26, 2004
Address: Via Meravigli 16, 20123 MILAN-ITALY
Telephone: (from USA) (011)(39)(02)8590-7777

Encl.: EXHIBITS A, B, C

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05282004

MODIANO & ASSOCIATI SpA
Via Meravigli, 16
20123 Milan
ITALY

AIR MAIL

JUN 16 2004

In re Application of:
Franco Neri
Serial No.: 10/148,670
Filed: June 3, 2002
For: SINGLE-PHASE MOTOR PARTICULARLY FOR SUBMERSED PUMPS

DECISION ON PETITION

This is a decision on the petition filed December 11, 2003, to withdraw the holding of abandonment of the above-identified application.

The petition is GRANTED.

This application was held abandoned for failure to respond in a timely manner to the non-final Office action of April 30, 2003. A Notice of Abandonment was mailed on December 19, 2003.

Petitioner states that the holding of abandonment is improper because the second non-final Office action mailed April 30, 2003 is clearly defective and a telephone conversation with the examiner after receipt of the second non-final Office action resulted in the examiner indicating, after consultation with a primary examiner, that a new Office action would be issued.

Petitioner asserts that, upon receipt of the second non-final Office action, a telephone call was made to the examiner on July 22, 2003, and petitioner's office was informed by the examiner that, upon consultation with the Primary Examiner, the telephone interview was to be considered a formal and timely response to the outstanding Office action, and that a new Office action taking into consideration the latest amendment to the claims into consideration.

A review of the application record reveals that a preliminary amendment was filed on June 3, 2002. A first Office action was mailed on January 17, 2003. A response was received, via facsimile transmission, on April 15, 2003. An Interview Summary form was mailed on April 30, 2003, bearing an interview date of April 18, 2003, and indicated therein "the rejection based [sic] on a 102(b) section was changed to a 102(e) because of the Applicant's filing date."

A second non-final Office action was mailed on April 30, 2003, and indicated that it was responsive to the communication filed on June 3, 2002.

The record confirms petitioner's assertion that the second non-final rejection did not properly address the pending claims at the time it was mailed. Specifically, claims 5 through 8 filed June 3, 2002 were examined and rejected instead of claim 5 and claims 6 through 12, as they were presented in the amendment filed April 15, 2003, which should have been examined.

Pursuant to section 714.05 of the Manual of Patent Examining Procedure (M.P.E.P.), a supplemental Office action is usually necessary when an amendment is filed on or before the mailing date of the regular action but reaches the Technology Center later. The supplemental action should be promptly prepared and point out that the period for reply runs from the mailing of the supplemental action. In the instant application, it is not clear why a supplemental/new Office action was not issued in view of the fact only one of the 8 (eight) pending claims (claim 5) was acted on their merits.

The record indicates that petitioner has taken appropriate steps to inform the examiner of both petitioner's actions and petitioner's observations/positions regarding the examiner's actions such as informing the examiner of the ground of rejection under 35 USC 102(b) in his firs non-final Office action along with the filing of a reply thereto. As such, petitioner's statement regarding the position reached during a telephone conversation with the examiner on July 22, 2003, is hereby accepted.

In view of the above-stated reasons and based on the special circumstances surrounding this application, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The examiner will issue a new Office action based on claims 5 through 12 currently pending.

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

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

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Paper No.

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ARLINGTON VA 22203

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OCT 11 2007

OFFICE OF PETITIONS

In re Application of	:	
Gary Cook	:	
Application No. 10/148,672	:	DECISION ON PETITION
Filed: June 3, 2002	:	UNDER 37 C.F.R. § 1.181
Attorney Docket No.: 124-951	:	
Title: NON-LINEAR OPTICAL	:	
BODIES AND DEVICES	:	

This is a decision on the petition filed on August 16, 2007, pursuant to 37 C.F.R. § 1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed January 5, 2007, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on April 6, 2007. A notice of abandonment was mailed on August 10, 2007.

RELEVANT PORTION OF THE C.F.R.

37 C.F.R. §1.8(b) sets forth, *in toto*:

> (b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
>
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
>
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

ANALYSIS

With the present petition, Petitioner has asserted that a response was submitted via facsimile transmission on April 2, 2007. Petitioner has submitted a copy of this submission, and it is noted that it contains a certificate of facsimile transmission dated April 2, 2007.

Certificate of facsimile transmission practice provides a mechanism by which Applicants may evince that a paper was timely submitted to the Office, in the event that the correspondence is not received.

Petitioner's submission has been reviewed: with the present petition, Petitioner has informed the Office of the previous facsimile transmission, provided an additional copy of the previously submitted correspondence, and has included a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely transmission.

Petitioner has requested that the holding of abandonment in the above-identified application be withdrawn. It is clear that a response was timely submitted. Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that a submission was timely submitted.

Accordingly, the petition under 37 C.F.R. § 1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

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 notice of appeal and the pre-appeal brief request for review that was received with the present petition can be processed. The Technology Center will then designate a panel of examiners experienced in the field of technology to review the applicant's remarks and the Examiner's rejections.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[1]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

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

16 JAN 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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Thomas L. Tarolli
Tarolli Sundheim Covell Tummino & Szabo
Suite 1111
526 Superior Avenue
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In re Application of
MARTIN WANY
U.S. Application No.: 10/148,683
PCT Application No.: PCT/EP00/13144
Int. Filing Date: 21 December 2000
Priority Date: 24 December 1999
Attorney Docket No.: HU-6115
For: PHOTODETECTOR AND METHOD FOR DETECTING RADIATION

DECISION

This is in response to applicant's "PETITION" under 37 CFR 1.182 filed 07 January 2002, to correct the international application number on the first page of the transmittal letter filed on 31 May 2002. A petition fee of $130.00 was charged to applicant's deposit account per their authorization. The petition is **GRANTED**.

On 21 December 2000, applicants filed international application No. PCT/EP00/13114, which claimed a priority date of 22 December 1999 and which designated the United States.

A Demand was filed with the International Preliminary Examining Authority electing the United States. As a result the deadline for payment of the basic national fee was extended to expire 30 months from the priority date, or on 24 June 2002.

On 31 May 2002, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee. The first page of the transmittal letter incorrectly indicated international application no. PCT/EP00/13144; it should have read PCT/EP00/13114 as listed on the subsequent pages.

On 07 January 2003, applicants filed the instant petition requesting rectification of incorrect international application no. identifying the correct international application no. as PCT/EP00/13114.

In view of the fact that the attorney docket number on the transmittal letter and the Notification of Missing Requirements (Form PCT/DO/EO/905) mailed on 21 August 2002 are the same, the time period set forth in the 905 remains in effect and continues to run.

The application is being forwarded to the US Designated/Elected Office for further processing as the national stage of PCT/EP00/13114, assigned U.S. serial number 10/148,683.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Telephone: (703)306-5467

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OFFICE OF PETITIONS

KRIEG DEVAULT LLP
ONE INDIANA SQUARE, SUITE 2800
INDIANAPOLIS IN 46204-2709

In re Application of :
GRAF :
Application No. 10/148,693 :
Filed: August 19, 2002 :
Attorney Docket No. MSDI-147 :

DECISION
ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 24, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability, mailed September 7, 2005, which set a period for reply of three (3) months. Accordingly, this application became abandoned on December 8, 2005.

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

As indicated in the petition, the issue and publication fees have been received. However while the petition refers to an enclosed Correction to the Drawings in paragraph 2(A), a review of the file does not include the corrections as required by the Notice of Allowability of September 7, 2005. Accordingly, this application cannot be revived until corrected formal drawings have been submitted.

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) 272-4787.

Denise Pothier
Petitions Examiner
Office of Petitions

DATE: 9/28/07 APPLICATION NUMBER: 10/148,693

DOC CODE: PetDec. Pubs DOC DATE: 10/2/07

DELIVER THE ATTACHED FILE/DOCUMENT TO THE TC SCANNIG CENETER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN 8 WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN 16 WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

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INDIANAPOLIS IN 46204-2709

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OFFICE OF PETITIONS

In re Application of :
GRAF :
Application No. 10/148,693 : DECISION ON PETITION
Filed: August 19, 2002 :
Attorney Docket No. MSDI-147 :

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

The petition is **GRANTED**.

This application became abandoned for failure to timely submit formal drawings before December 7, 2005, as required by the Notice of Allowability, mailed September 7, 2005. Accordingly, the date of abandonment of this application is December 8, 2005. A petition to revive was filed on July 24, 2006. In a decision mailed November 29, 2006, the petition was dismissed because the petition lacked the required reply in the form of corrected formal drawings.

The original in combination with the renewed petition satisfy the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the corrected formal drawing, (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

The November 29, 2006 decision on petition set a two-month period for response with extensions of time permitted. Because the renewed petition was filed on February 2, 2007, a one-month extension of time is due. The $120 fee has been charged to the authorized deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4787.

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

Denise Pothier
Petitions Examiner
Office of Petitions

19 MAY 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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CHICAGO, IL 60603-3406

In re Application of MATTERN et al
U.S. Application No.: 10/148,698
PCT Application No.: PCT/DE00/04316
Int. Filing Date: 04 December 2000
Priority Date Claimed: 03 December 1999
Attorney Docket No.: 85904.8276
For: APPARATUS FOR INJECTING ANTIPARASITICS IN DOMESTIC ANIMALS

DECISION

This is in response to applicant's "Request for Correction of Filing Receipt" submitted 12 October 2005.

The request states that the filing date should be listed as 31 May 2002. However, the filing date of the present application is the international filing date, i.e. 04 December 2000. The "filing date" listed on the filing receipt refers to the date of completion of the 35 U.S.C. 371 (c)(1), (c)(2), and (c)(4) requirements but is not the true filing date for legal purposes. See MPEP 1893.03(b) (stating "The "Application Filing Date" field formerly displayed in PAIR was changed to "Filing or 371(c) Date" to clearly indicate that for international applications that enter the national stage under 35 U.S.C. 371, the information displayed in this field is the date of receipt of the 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements. Applicants are quite often confused as to the true filing date and will ask for corrected filing receipts thinking that the information thereon is wrong. This explanation should offer some clarity. For most legal purposes, the filing date is the PCT international filing date.")

For the reasons above, the request is DISMISSED without prejudice.

The application is being returned to the appropriate Technology Center for continued processing.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

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William D. McSpadden
Baker & McKenzie
2001 Ross Avenue, Suite 2300
Dallas, TX 75201

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OFFICE OF PETITIONS

In re Patent No. 6,879,061	:	
Issue Date: April 12, 2005	:	
Application No. 10/148,723	:	DECISION ON PETITION
Filed: May 28, 2002	:	
Attorney Docket No. 24158279.3	:	

This is a decision on the petition under 37 CFR 3.81(b), filed August 22, 2005, to correct the assignment information on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **granted**.

The matter is being referred to the Certificate of Correction Branch to issue the Certificate of Correction.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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JAN 0 3 2008

OFFICE OF PETITIONS

In re Patent No. 7,160,522	:	
Issue Date: January 9, 2007	:	
Application No. 10/148,736	:	NOTICE
Filed: October 15, 2002	:	
Attorney Docket No. HERR 19.747	:	

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

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

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

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APR 2 2 2004

OFFICE OF PETITIONS

In re Application of :
Juzer Jangbarwala :
Application No. 10/148,756 : NOTICE
Filed: September 3, 2002 :
Attorney Docket No. 1704

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 1754.

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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ALEXANDRIA, VA 22313-1450
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Robert F.I. Conte
Barnes & Thornburg
P.O. Box 2786
Chicago, IL 60690-2786

In re Application of :
NOVIKOV (DECEASED) : DECISION ON PETITION
Application No.: 10/148,787 :
PCT No.: PCT/GB00/04523 : UNDER 37 CFR 1.47(b)
Int. Filing Date: 28 November 2000 :
Priority Date: 02 December 1999 :
Attorney Docket No.: 6509-1059 :
For: A FILTER :

This decision is in response to applicant's "Petition Pursuant to 37 C.F.R. 1.47(b)" filed 24 February 2003 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 28 November 2000, applicant filed international application PCT/GB00/04523, which claimed priority of an earlier application filed 02 December 1999. A copy of the International Application was forwarded to the USPTO from the International Bureau (IB) on 07 June 2001. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 02 June 2002.

On 31 May 2002, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1), an Information Disclosure Statement and an unexecuted declaration.

On 19 August 2002, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an executed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International Application number and international filing date. Applicant was further advised of the need to provide payment of the surcharge for providing an executed oath or declaration of the inventors later than thirty months from the priority date. Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 24 February 2003, applicant filed the present petition accompanied by a petition for a four-month extension of time and payment of the $1450.00 extension of time fee. With the filing

of the petition for a four-month extension of time, payment of the appropriate fee and certification that the response was deposited for mailing on 19 February 2003, applicant's response is considered timely filed.

DISCUSSION

Applicant is advised that a change of correspondence address has not been filed for the present application. No further communications from the USPTO will be mailed to the above address without an official change of correspondence address being filed.

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17(h); (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the non-signing inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as an agent for the non-signing inventor; (5) proof of proprietary interest in the application; and, (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages. Applicant has satisfied items (1) and (6).

As to item (2), as stated in the Manual of Patent Examination Procedure (MPEP), Section 409.03(d) Proof of Unavailability or Refusal, "Before a refusal can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature." Applicant has not shown that a *bona fide* attempt was made to present the application papers, including the specification, claims, and drawings to the legal representative, Natalia N. Novikova. It appears from the enclosed exhibits that Mrs. Novikova was merely presented with an assignment document and declaration for execution. This is insufficient. In addition, it appears from her letter to Mr. Capetanopulos that Mrs. Novikova is not outright refusing to execute the documents but rather is seeking compensation for doing so and refers to counsel as a point of contact.

Regarding item (3), while applicant has provided the last known address of Dr. Novikova, as is clear for the petition, it is the legal representative, Mrs. Natalia N. Novikova who is in effect the non-signing applicant in this case. Therefore applicant must provide her last known address.

As to item (4), the filed declaration does not comply with 37 CFR 1.497 (a)-(b) in that is does not identify Mrs. Novikova as the legal representative to the deceased inventor. As applicant has received confirmation that Dr. Novikova is deceased, a proper declaration setting forth the residence, post office address and country of citizenship of both the deceased inventor and his legal representative is required.

Regarding item (5), applicant has provided an assignment document executed by Dr. Novikova assignee his interest in the invention to Energy Efficiency Systems, Inc. (EES) and an assignment of agreements between EES and Ecolotrol, Inc. However, it is unclear whether the

assignment signed by Dr. Novikov was executed on 05 October 1999 or 10 May 1999. An assignment executed on 05 October 1999 would be insufficient for showing that Ecolotrol, Inc. has a proprietary interest in the present invention as the document would have been executed three months after the assignment of agreements between EES and Ecolotrol, Inc. In addition, the assignment of agreements between EES and Ecolotrol, Inc. references two purported agreements between Dr. Novikov and EES dated 19 July 1999, however, applicant has not provided copies of the documents, nor any showing that the invention in question is covered by said agreements.

For the above reasons, it would not be appropriate to accept this application without the signature of Natalia N. Novikova at this time.

CONCLUSION

The petition filed under 37 CFR 1.47(b) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mailing date of this decision. Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.47(b)." No additional petition fee is required.

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (703) 305-0130
Fax: (703) 308-6459

#8

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Robert F.I. Conte
Barnes & Thornburg
P.O. Box 2786
Chicago, IL 60690-2786

In re Application of	:	
NOVIKOV (DECEASED)	:	DECISION ON RENEWED
Application No.: 10/148,787	:	
PCT No.: PCT/GB00/04523	:	PETITION UNDER
Int. Filing Date: 28 November 2000	:	
Priority Date: 02 December 1999	:	37 CFR 1.47(b)
Attorney Docket No.: 6509-1059	:	
For: A FILTER	:	

This decision is in response to applicant's "Renewed Petition Pursuant to 37 C.F.R. 1.47(b)" filed 22 September 2003 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 24 June 2003, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47(b). Applicant was afforded two months to file any request for reconsideration.

On 22 September 2003, applicant filed the present renewed petition under 37 CFR 1.47(b) accompanied by a petition for a one-month extension of time and check in the amount of $110.00 as payment of the one-month extension of time fee and a "Change of Attorney Or Agent's Address in Application." With the filing of the petition for a one-month extension of time and payment of the extension fee, the renewed petition is considered timely filed.

DISCUSSION

As detailed in the decision mailed 24 June 2003, a petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17(h); (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the non-signing inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as an agent for the non-signing inventor; (5) proof of proprietary interest in the application; and, (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages. Applicant previously satisfied items (1) and (6).

As to item (2), as stated in the Manual of Patent Examination Procedure (MPEP), Section 409.03(d) Proof of Unavailability or Refusal, "Before a refusal can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the application papers

(specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature." Applicant has presently provided evidence that a complete set of application papers was mailed to the legal representative, Mrs. Novikova prior to her most recent refusal to sign the declaration. Applicant's inclusion of the letter of 20 August 2003 sufficiently documents Mrs. Novikova's continued refusal to execute the declaration. Thus, applicant has satisfied this item.

Regarding item (3), applicant has presently provided the last known address of the legal representative, Mrs. Natalia N. Novikova.

Regarding item (4), the filed declaration sets forth the residence, post office address and country of citizenship of both the deceased inventor and his legal representative as required. The declaration has been executed by the assignee on her behalf.

Regarding item (5), applicant has provided an explanation that the assignment signed by Dr. Novikov was indeed executed on 10 May 1999. Applicant has thus made a sufficient showing that Ecolotrol, Inc. has a proprietary interest in the present invention.

For the above reasons, it is proper to grant applicant's renewed petition at this time.

CONCLUSION

Applicant's renewed petition under 37 CFR 1.47(b) is **GRANTED**.

As provided in 37 CFR 1.47(b), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(b) will be published in the Official Gazette.

This application will be given an international application filing date of 28 November 2000 and a date of **22 September 2003** under 35 U.S.C. 371.

This application is being returned to the DO/EO/US for processing in accordance with this decision, namely, the mailing of a NOTIFICATION OF ACCEPTANCE UNDER 35 U.S.C. 371 (Form PCT/DO/EO/903).

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (703) 305-0130
Fax: (703) 308-6459

18 NOV 2003

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COMMISSIONER FOR PATENTS
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Mrs. Natalia Novikov
61 Eagelsa pr.
Apt. 110
St. Petersburg
RUSSIA 194017

In re Application of
NOVIKOV (DECEASED)
Application No.: 10/148,787
PCT No.: PCT/GB00/04523
Int. Filing Date: 28 November 2000
Priority Date: 02 December 1999
Attorney Docket No.: 6509-1059
For: A FILTER

Dear Mrs. Novikov:

You are named as the legal representative to the deceased inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 116.

As the named 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 to make your position of record in the application. Alternately, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of the appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration

Robert F.I. Conte
Barnes & Thornburg
P.O. Box 2786
Chicago, IL U.S.A. 60690-2786

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BRUZGA & ASSOCIATES
11 BROADWAY, STE 400
NEW YORK, NY 10004

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OFFICE OF PETITIONS

In re Application of :
Antonios Paravantsos :
Application No. 10/148,794 : ON PETITION
Filed: June 4, 2002 :
Attorney Docket No. 2452 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 9, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 4, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 5, 2004.

The petition satisfies the requirement of 37 CFR 1.137 (b) in that petitioner has supplied (1) the reply in the form of an Amendment; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

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

The application matter is being referred to Technology Center 2800, Art Unit 2875 for further processing.

Retta Williams

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

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THE DOW CHEMICAL COMPANY
INTELLECTUAL PROPERTY SECTION,
P. O. BOX 1967
MIDLAND, MI 48641-1967

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AUG 22 2006

OFFICE OF PETITIONS

In re Patent No. 7,018,948 :
Issued: March 28, 2006 : DECISION REGARDNIG PATENT
Application No. 10/148,804 : TERM ADJUSTMENT and NOTICE
Filed: September 30, 2002 : OF INTENT TO ISSUE
Atty. Dkt. No. 44361A : CERTIFICATE OF CORRECTION

This decision is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 CFR § 1.705(d)," filed May 23, 2006.

The application for PTA under 37 CFR 1.705(d) is hereby **GRANTED**.

The above-identified application matured into U.S. Patent No. 7,018,948 on March 28, 2006. The patent issued with a PTA of 415 days. The application for patent term adjustment (PTA) was timely filed May 23, 2006 wherein patentees argue that the PTA of 535 was improperly reduced 120 days.

At the time of allowance, the application was entitled to an adjustment of 535 days for Office delays under 37 CFR 1.702. A review of the application history reveals that the adjustment was errantly reduced 120 days with regard to an entry on June 20, 2005 of "SUPPLEMENTAL PAPERS - OATH OR DECLARATION." There was no applicant submission on June 20, 2005.

Accordingly, the patent is entitled to an adjustment of 535 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 535 days.

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

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

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

CC: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	7,018,948 B2
DATED	:	March 28, 2006
INVENTOR(S)	:	Parker, 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 415 days

Delete the phrase "by 415 days" and insert – by 535 days--

Day : Monday
Date: 8/21/2006

PALM INTRANET

Time: 14:10:51

PTA Calculations for Application: 10/148804			
Application Filing Date:	09/30/2002	PTO Delay (PTO):	535
Issue Date of Patent:	03/28/2006	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	120
Post-Issue Petitions:	0	Total PTA (days):	535
PTO Delay Adjustment:	120		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
38	08/21/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	120		
34.5	03/08/2006	PTA 36 MONTHS			
34	03/28/2006	PATENT ISSUE DATE USED IN PTA CALCULATION	226		30
33	02/08/2006	RECEIPT INTO PUBS			
32	02/07/2006	DISPATCH TO FDC			
31	02/07/2006	APPLICATION IS CONSIDERED READY FOR ISSUE			
30	04/14/2005	ISSUE FEE PAYMENT VERIFIED			
29	06/20/2005	SUPPLEMENTAL PAPERS - OATH OR DECLARATION		120	
28	01/12/2006	RECEIPT INTO PUBS			
27	11/28/2005	WORKFLOW - QUERY REQUEST - FINISH			
26	05/05/2005	WORKFLOW - QUERY REQUEST - BEGIN			
25	04/14/2005	ISSUE FEE PAYMENT RECEIVED			
24	03/23/2005	WORKFLOW - FILE SENT TO CONTRACTOR			
23	03/02/2005	EXPORT TO INITIAL DATA CAPTURE			
22	02/23/2005	MAIL NOTICE OF ALLOWANCE			
21	02/22/2005	ISSUE REVISION COMPLETED			
20	02/22/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
19	02/16/2005	NOTICE OF ALLOWABILITY			
18	01/03/2005	DATE FORWARDED TO EXAMINER			
17	12/08/2004	RESPONSE AFTER NON-FINAL ACTION			
16	10/04/2004	MAIL NON-FINAL REJECTION	309		-1
15	09/30/2004	NON-FINAL REJECTION			
14	09/25/2003	REFERENCE CAPTURE ON IDS			

13	09/25/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	10/30/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
11	07/31/2003	CLEARED BY OIPE CSR			
10	07/16/2003	CASE DOCKETED TO EXAMINER IN GAU			
9	07/08/2003	TRANSFER INQUIRY TO GAU			
8	06/11/2003	AUTO REFERRED BY PALM PRE EXAM			
7	02/05/2003	APPLICATION DISPATCHED FROM OIPE			
6	01/29/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
5	01/10/2003	NOTICE OF DO/EO ACCEPTANCE MAILED			
4	09/30/2002	ADDITIONAL APPLICATION FILING FEES			
3	09/30/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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#5

ExxonMobil Research and Engineering Company
PO Box 900
Annandale, NJ 08801-0900

In re Application of	:	
BARBOUR, Robert Howie, et al.	:	
Application No.: 10/148,813	:	DECISION ON
PCT No.: PCT/EP00/12754	:	
Int. Filing Date: 14 December 2000	:	PETITION UNDER
Priority Date: 16 December 1999	:	
Attorney Docket No.: P1999S011	:	37 CFR 1.47(a)
For: FUEL COMPOSITION	:	

This is a decision on applicants' "Petition To Delay One Signature Under 37 C.F.R. 1.47" filed in the United States Patent and Trademark Office on 08 October 2002.

BACKGROUND

On 14 December 2000, applicants filed international application PCT/EP00/12754, which claimed a priority date of 16 December 1999. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 12 June 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 22 June 2001, within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 17 June 2002 (16 June 2002 was a Sunday).

On 04 June 2002, applicants filed a submission for entry into the national stage in the United States which was accompanied by the basic national fee.

On 08 August 2002, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 08 October 2002, applicants submitted the petition under 37 CFR 1.47.

DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the nonsigning applicant

Items (1), (3) and (4) have been met. The petition fee of $130 will be charged to deposit account no. 05-1330 as authorized by the petition. The petition states the last know address of Douglas James Abbott as Lynwood, Chapel Lane, Underbarrow, Kendal, Cumbria LA8 8HJ, England. The declaration complies with 37 CFR 1.497(a)-(b).

Item (2) has not been met. Under 37 CFR 1.47(a), the petition must supply proof of pertinent facts.

As applicants have located the non-signing inventor, it is understood that applicants are alleging that the non-signing inventor has refused to sign the declaration after presentation with a complete copy of the application papers. Applicants must prove that they have made a *bona fide* attempt to present the non-signing inventor with a complete copy of the application papers (specification, including claims, drawings, and oath or declaration). MPEP 409.03(d). Applicants should provide copies of documentary evidence such as signed returned certified mail receipts and a statement of facts that sets forth the manner of the presentation of the application papers and of the refusal from someone with first hand knowledge of the facts of the facts recited therein.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of this letter marked to the attention of the Office of PCT Legal Administration.

Richard Cole
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

07 MAY 2003

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#7

ExxonMobil Research and Engineering Company
PO Box 900
Annandale, NJ 08801-0900

In re Application of	:	
BARBOUR, Robert Howie, et al.	:	
Application No.: 10/148,813	:	DECISION ON
PCT No.: PCT/EP00/12754	:	
Int. Filing Date: 14 December 2000	:	PETITION UNDER
Priority Date: 16 December 1999	:	
Attorney Docket No.: P1999S011	:	37 CFR 1.47(a)
For: FUEL COMPOSITION	:	

This is a decision on applicants' "Submission of Declaration For Remaining Inventor," filed in the United States Patent and Trademark Office on 29 October 2002.

BACKGROUND

On 14 December 2000, applicants filed international application PCT/EP00/12754, which claimed a priority date of 16 December 1999. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 12 June 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 22 June 2001, within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 17 June 2002 (16 June 2002 was a Sunday).

On 04 June 2002, applicants filed a submission for entry into the national stage in the United States which was accompanied by the basic national fee.

On 08 August 2002, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 08 October 2002, applicants submitted the petition under 37 CFR 1.47.

On 29 October 2002, applicants submitted a declaration executed by the nonsigning inventor.

On 27 March 2003, the Office dismissed the 08 October 2003 petition without prejudice.

DISCUSSION

The declaration submitted on 29 October 2002 in combination with the declarations from 08 October 2002 comply with 37 CFR 1.497(a)-(b).

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED AS MOOT**.

The application has an international filing date of 14 December 2000 under 35 U.S.C. §363 and a date of 29 October 2002 under 35 U.S.C. §371. This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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EXXONMOBIL RESEARCH & ENGINEERING COMPANY
PO BOX 900
ANNANDALE NJ 08801-0900

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OFFICE OF PETITIONS

In re Application of
Robert Howie Barbour et al. :
Application No. 10/148,815 : ON PETITION
Filed: September 27, 2002 :
Attorney Docket Number: P1999S009 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 21, 2004, to revive the above identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed June 20, 2003. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned September 21, 2003. Accordingly, a Notice of Abandonment was mailed January 28, 2004.

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

This application is being forwarded to Technology Center 1714 for appropriate action on the amendment filed September 21, 2004.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

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MAR 1 1 2005

In re Application of:
Katsuyuki KANEKO et al.
Serial No.: 10/148,829
Filed: June 4, 2002
Attorney Docket No.: **MTS-3343US**

DECISION ON PETITION
FOR CONSIDERATION OF IDS

This is a decision in response to the communication filed October 01, 2004. The communication has been treated as a petition under 37 C.F.R. § 1.181, to consider the Information Disclosure Statement (IDS) filed on June 4, 2002, and of the examiner's comments thereon. No petition fee is required.

The petition is **DISMISSED**.

The adequacy of the statement of relevance regarding the Japanese reference has been addressed by the examiner and by the petitioner. As the reference has been considered and initialed on applicant's Form 1449 by the examiner, no further comment on the IDS is deemed necessary, and accordingly, the petition is dismissed.

Regarding the request that the application be suspended until the issue raised in the petition is resolved, the issue has been resolved as indicated above. It should be noted that any request to suspend or waive the requirement of the rules must be submitted as a petition under § 1.183.

Any inquiry regarding this decision should be directed to David P. Porta, Supervisory Patent Examiner, at (571) 272-2444.

The application file will continue to be processed for issuance of a patent.

Janice A. Falcone

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

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WASHINGTON, DC 20005

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OFFICE OF PETITIONS

In re Application of :
Eduard Karel De Jong :
Application No. 10/148,830 : ON PETITION
Filed: September 23, 2002 :
Attorney Docket No. 03307.0031 :

This is a decision on the petition under 37 CFR 1.314, filed May 21, 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 (703) 306-5685.[1] 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 Publishing Division.

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

[1] Effective September 27, 2004, the phone number will be 571-272-3220.

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JUL 13 2005

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

In re Application of	:
Tatsuki Shiota et al	:
Serial No.: 10/148,831	: PETITION DECISION
Filed: June 5, 2002	:
Attorney Docket No.: Q70355	:

This is a response to the petition under 37 CFR 1.59(b), filed May 18, 2005, to expunge information from the above identified application. This application has been examined.

Petitioner requests that documents submitted May 18, as a Proprietary Information Disclosure Statement be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(g) has been paid.

This is an application under examination. As such the information provided will be reviewed. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in the application petition may be made for return of Proprietary Information Disclosure Statements. Prosecution in this application has not been closed.

The petition is **DISMISSED**. Applicants may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at general Office facsimile number, 571-273-8300.

Bruce M. Kisliuk
Director, Technology Center 1600

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JUN - 1 2007

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

In re Application of	:
Tatsuki Shiota et al	:
Serial No.: 10/148,831	: PETITION DECISION
Filed: June 5, 2002	:
Attorney Docket No.: Q70355	:

This is a response to the renewed petition under 37 CFR 1.59(b), filed April 2, 2007, to expunge information from the above identified application. This application has been examined.

Petitioner requests that documents submitted May 18, as a Proprietary Information Disclosure Statement be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(g) has been paid.

The application has now been abandoned and the proprietary material is being returned herewith in accordance with Office policy.

The petition is **GRANTED**.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at general Office facsimile number, 571-273-8300.

Bruce M. Kisliuk
Director, Technology Center 1600

Back To Home Page

PATENT APPLICATION

10148831

PATENT APPLICATION

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29 AUG 2003

Peter S. Weissman
Blank Rome, LLP
600 New Hampshire Ave., N.W.
Washington, D.C. 20037

In re Application of :
FARAN, et al. : DECISION ON PETITION
Serial No.: 10/148,837 :
PCT No.: PCT/IL01/00814 : UNDER 37 CFR 1.47(a)
Int. Filing Date: 04 December 2000 :
Priority Date: 09 December 1999 :
Atty Docket No.: 110739.00106 :
For: DOSIMETER FOR SUN RADIATION :
FOR USE OF SUNSCREEN :

This decision is in response to the applicant's "PETITION UNDER 37 CFR 1.47(a)" filed 03 July 2003 in the United States Patent and Trademark Office (USPTO) to accept the application without the signature of inventor Dmitri LASTOCHKIN.

BACKGROUND

On 04 December 2000, applicant filed international application PCT/IL01/00814. A copy of the international application was communicated to the USPTO from the International Bureau on 14 June 2001. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 09 June 2002.

On 04 June 2002, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1). An executed oath or declaration of the inventor as required by 35 U.S.C. 371 (c)(4) was not filed.

On 03 December 2002, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an executed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was afforded two months or by 32 months from the priority date whichever was later to respond.

On 03 July 2003, applicant responded with the present petition accompanied by a

combined declaration and power of attorney executed by inventors Ori FARAN and Ezra NATAN, a petition for a five-month extension of time and payment of the five-month extension of time fee.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(i), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Regarding item (1), applicant has provided payment of the appropriate petition fee.

As to item (3), applicant has supplied a statement of the last known address of inventor Dmitri LASTOCHKIN.

Applicant has thus satisfied items (1) and (3) above.

As to item (2), Section 409.03(d) of the Manual of Patent Examining Procedure (MPEP) states, in part:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, an affidavit or declaration of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 CFR 1.47. Such a petition will be dismissed as inappropriate.
>
> The affidavit or declaration of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as certified mail return receipt, cover letter of instructions, telegrams, etc., that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Applicant alleges that the non-signing inventor cannot be found or located after diligent

effort. Inventor FARAN declares that "Since June 26, 2002, I have tried to reach Mr. Lastochkin numerous times via the email address and facsimile number noted in Exhibit A....and have searched the Internet." However, applicant has not provided copies of any documentary evidence to support the purported attempts such as copies of the emails or search results from the Internet. In addition, it does not appear from the petition and supporting materials that a copy of the application papers and declaration were ever mailed to the non-signing inventor at his last known address.

Regarding item (4), applicant has a combined declaration and power of attorney executed by inventors Ori FARAN and Ezra NATAN on their own behalf and on the behalf of the non-signing inventor, Dmitri LASTOCHKIN. However, the declaration does not comply with 37 CFR 1.497(a)-(b) in that the citizenship of the non-signing inventor, Mr. LASTOCHKIN does not appear on the declaration.

For the reasons stated above, it is not possible to grant applicant's petition at this time.

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.47(a) is **DISMISSED without prejudice**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (703) 305-0130
Fax: (703) 308-6459

_To be Scanned

Draft Petition Decision

Serial No. 10/140,837

Date of Draft 17 Dec 03

Paralegal Spec. PUTMAN

Conferee Approval _____

Petitions Book Nos. _____

PALM Petition Code 278

Charge Account No. _____

Fee _____ Code _____

Fee _____ Code _____

Fee _____ Code _____

Granted _____

Dismissed ✓ AS NOOT

Dismissed with Recommendation _____

17 DEC 2003

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Peter S. Weissman
Blank Rome, LLP
600 New Hampshire Ave., N.W.
Washington, D.C. 20037

In re Application of	:	
FARAN, et al.	:	DECISION ON RENEWED
Serial No.: 10/148,837	:	
PCT No.: PCT/IL01/00814	:	PETITION UNDER
Int. Filing Date: 04 December 2000	:	
Priority Date: 09 December 1999	:	37 CFR 1.47(a)
Atty Docket No.: 110739.00106	:	
For: DOSIMETER FOR SUN RADIATION FOR USE OF SUNSCREEN	:	

This decision is in response to the applicant's "RENEWED PETITION UNDER 37 CFR 1.47(a)" filed 29 October 2003 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

In a decision dated 29 August 2003, applicant's "Petition Under 37 CFR 1.47(a)" to accept the application without the signature of joint inventor Mr. Dmitri LASTOCHKIN was dismissed. Applicant was given a period of two months in which to respond. Applicant filed the present response on 29 October 2003.

DISCUSSION

The Renewed Petition Under 37 CFR 1.47(a) filed 29 October 2003 is moot since it is accompanied by a declaration executed by the previous non-signing inventor, Dmitri LASTOCHKIN. The declaration is acceptable under 37 CFR 1.497. It is noted that the previously filed declaration did not comply with 37 CFR 1.497 in that it did not provide the citizenship of Mr. LASTOCHKIN. However, taken in concert with the presently filed declaration (which does identify Mr. LASTOCHKIN's citizenship), the declaration filed 03 July 2003 is in compliance with 37 CFR 1.497.

CONCLUSION

For the reasons stated above, applicant's renewed petition under 37 CFR 1.47(a) is **DISMISSED** as moot.

The application has an international filing date of 04 December 2000 and will be given a

date of **29 October 2003** under 35 U.S.C 371(c).

This application is being returned to the DO/EO/US for processing in accordance with this decision.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (703) 305-0130
Fax: (703) 308-6459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070907

DATE : September 7, 2007

TO SPE OF : ART UNIT 1623

SUBJECT : Request for Certificate of Correction on Patent No.: 6,875,755 B2

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

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

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

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

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

☒ **Approved** **All** changes apply.

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

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

Comments:

SPE: Shaojia Jiang **Art Unit** 1623

09 MAY 2006

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Anita Nador
Scotia Plaza, 40 King Street West, 40th Floor
Toronto, Ontario, Canada M5H 3Y2

In re Application of	:	
White et al.	:	
US Application No.: 10/148,883	:	
PCT Application No.: PCT/CA00/01493	:	DECISION ON
Int. Filing Date: 15 December 2000	:	PETITION UNDER
Priority Date: 16 December 1999	:	37 CFR 1.181
Attorney's File Reference: 11812-49	:	
For: CYTOCHROME P450RAI-2	:	
AND RELATED PROTEINS	:	

This is a decision in response to applicants' Request For Corrected Filing Receipt And Notice Of Acceptance filed 01 August 2003 which is being treated as a petition under 37 CFR 1.181.

BACKGROUND

The present application is a U.S. national phase application of international application PCT/CA00/01493. PCT/CA00/01493 was awarded an international filing date of 15 December 2000 and claimed a priority date of 16 December 1999. On 16 July 2001, a Demand for international preliminary examination was filed in PCT/CA00/01493. Accordingly, the deadline for paying the basic national fee to avoid abandonment of the international application as to the U.S. expired at midnight of 16 June 2002.

On 14 June 2002, applicant filed, inter alia, a transmittal letter to enter the U.S. national stage, the basic national fee, and an application data sheet (ADS).

On 01 August 2003, applicants filed the instant petition requesting the following corrections to the filing receipt: (1) that the residence of two of the inventors be corrected to read "Kingston", (2) that the international filing date associated with PCT/CA00/01493 be corrected to read "12/15/2003", (3) that priority information be added (60/171,110), and (4) that the title be corrected to read "Cytochrome P450RAI-2 and related proteins".

Applicants also request a corrected Notice of Acceptance to reflect an international filing date of "12/15/2000" and priority date "12/16/1999".

DISCUSSION

A review of the application file reveals that the above identified changes should be made as requested. Specifically, as to items (1), (3), and (4) above, the corrections are supported by the ADS filed 14 June 2002. As to item (2), the WIPO publication of the international application indicated an international filing date of 15 December 2000.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

The application will be returned to National Stage Processing to issue a corrected Filing Receipt and Notice of Acceptance in view of this decision.

Aileen Felton
Petitions Detailee
Office of PCT Legal Administration
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313
VOX (571) 272-6095
Aileen.Felton@uspto.gov

Boris Milef
PCT Legal Examiner
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04 DEC 2006

Bereskin & Parr
40 King Street West
Box 401
Toronto ON M5H 3Y2 CA CANADA

In Re Application of WHITE et al. Application No.: 10/148,883 PCT No.: PCT/CA00/01493 Int. Filing Date: 15 December 2000 Priority Date: 16 December 1999 Attorney Docket No.: 11812.49 For: CYTOCHROME P450RAI-2 AND RELATED PROTEINS	DECISION ON PETITION

This is a decision on applicant's "REQUEST FOR CORRECTED FILING RECEIPT AND NOTICE OF ACCEPTANCE" filed in the United States Patent and Trademark Office (USPTO) on 01 August 2003 and refiled on 30 October 2006.

BACKGROUND

On 15 December 2000, applicant filed international application No. PCT/CA00/01493 which claimed a priority date of 16 December 1999 and which designated the United States. Thereafter, on 14 June 2002, before the expiration of the thirty month period, applicant filed, *inter alia*, a transmittal letter for entry into the national stage and the basic national stage filing fee.

On 07 May 2003, a Notification of Acceptance Under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) indicating a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 13 February 2003. The Notification, however, listed the international filing date incorrectly as "12/20/2000" and the priority date incorrectly as "1/27/2000".

On 01 August 2003 and 30 October 2006, applicant requests a corrected filing receipt and Notice of Acceptance.

DISCUSSION

A review of the application file indicates the Notification of Acceptance mailed on 07 May 2003 contains erroneous filing date and priority date information.

The actual filing date of the present application is considered to be the international filing date, 15 December 2000. The application file indicates that applicant completed the requirements set forth in 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) on 13 February 2003. However, the Notification of Acceptance (FORM PCT/DO/EO/903) mailed on 07 May 2003 indicated an improper filing date and priority date and is **vacated**. (*See* MPEP sections1893.03(b) and (c).

CONCLUSION

Applicant's request to correct the Notification of Acceptance to reflect the international filing date of 15 December 2000 and priority date of 16 December 1999 is **GRANTED**.

The Notification of Acceptance (Form PCT/DO/EO/903) mailed on 07 May 2003 is hereby **VACATED**.

This application is being forwarded the US Designated/Elected Office for issuance of a corrected Notification of Acceptance (FORM PCT/DO/EO/903) indicating a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of **13 February 2003** and international filing date of 15 December 2000 and priority date of 16 December 1999 and mailing of a corrected filing receipt in accord with applicant's request to correct the inventors' addresses and the title of the invention..

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: (571) 272-3286

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

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JAN 17 2006

OFFICE OF PETITIONS

In re Application of	:	
Eduard Karel De Jong	:	DECISION ON APPLICATION
Application No. 10/148,927	:	FOR PATENT TERM ADJUSTMENT
Filed: October 9, 2002	:	
Attorney Docket No. 06502-0553-0	:	

This decision is in response to the "NOTICE OF ERROR IN THE DETERMINATION OF PATENT TERM ADJUSTMENT," filed November 21, 2005, notifying the Office of an error in Applicant's favor in the initial determination of patent term adjustment under 35 U.S.C. § 154(b).

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is **three hundred three (303)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On October 27, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is three hundred six (306) days.

The Office initially determined a patent term adjustment of three hundred six (306) days based on an adjustment for PTO delay of three hundred seventeen (317) days, pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by applicant's delay of eleven (11) days pursuant to 35 U.S.C. 154(b)(2)(C)(i) and 37 C.F.R. § 1.704(c)(8). The adjustment of eleven (11) days is at issue.

A review of the record reveals that Applicant filed a response to a February 10, 2005 Office action on May 9, 2005. Applicant then filed a supplemental response on May 23, 2005, not May 20, 2005, as indicated in PAIR. Accordingly, applicant delay pursuant to 37 C.F.R. § 1.704(c)(8) should have been assessed as fourteen (14) days, not eleven (11) days.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is **three hundred three (303)** days (317 days of PTO delay, reduced by 14 days of Applicant delay).

No petition fee was required. The Office thanks Applicant for his good faith and candor in bringing this matter to the attention of the Office.

The application file is being forwarded to the Office of Patent Publication for issuance of the patent.

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

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

Enclosure: Copy of adjusted PAIR calculation

28 JAN 2003

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Steven L. Oberholtzer
Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago, Illinois 60610

In re Application of
GOENKA et al.
Application No.: 10/148,932
PCT No.: PCT/US01/31150
Int. Filing Date: 03 October 2001
Priority Date: 03 October 2000
Attorney Docket No.: 10541-1434
For: SYSTEM AND METHOD FOR MOUNTING ELECTRONIC COMPONENTS ONTO FLEXIBLE SUBSTRATES

DECISION ON
PAPERS UNDER 37 CFR 1.42

This is a response to the declaration filed 28 October 2002 which is being treated as a request under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 03 October 2001, applicants filed international application PCT/US01/31150, which claimed a priority date of 03 October 2000. A Demand was not filed with the International Preliminary Examining Authority. As a result, the deadline for payment of the basic national fee was to expire 20 months from the priority date, 03 June 2002.

On 03 June 2002, applicants filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee and a preliminary amendment.

On 09 August 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497 and the surcharge fee required under 37 CFR 1.492(e). The notification set a two-month time limit in which to respond.

On 28 October 2002, applicants filed a declaration and power of attorney executed by Lakhi Nandlal Goenka; Peter Joseph Sinkunas; Charles Frederick Schweitzer; Mark Miller; Raymond Eric Foster; Stephen Edward Fuks; and Thomas B. Krautheim as inventors and Jason Bullock on behalf of deceased inventor Lawrence Lernel Bullock.

DISCUSSION

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

Section 409.01(a) of the Manual of Patent Examining Procedure (MPEP) states that the application can also be executed by "all of the heirs" of the deceased inventor, where no legal representative has been appointed.

The declaration submitted on 28 October 2002 was executed by Jason Bullock as "heir" to the deceased inventor Lawrence Lernel Bullock. However, the declaration does not state that Jason Bullock is the sole heirs of the deceased inventor. Absent a statement that the signing heir is the sole heir of the deceased inventor, the declaration cannot be accepted under 37 CFR 1.42.

In addition, it is noted that revised 37 CFR 1.497(b)(2) states the following:

> (2) If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, or § 1.47) the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative.

Pursuant to revised 37 CFR 1.497(b)(2), in addition to the citizenship and former residence and post office address of the deceased inventor referenced under 37 CFR 1.497(a)(3) and 37 CFR 1.63, the declaration must also provide residence, citizenship, and post office address for the signing heir. The declaration filed on 28 October 2002 provides this information with respect to the signing heir, but not the inventor. Accordingly, the declaration is not in compliance with 37 CFR 1.497(a)(3) and 37 CFR 1.63.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **REFUSED**.

Applicant is required to provide an oath/declaration in compliance with 37 CFR 1.497(a)-(b) within **TWO (2) MONTH** from the mail date of this Decision. Failure to respond will result in the abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42" and must include an acceptable declaration under 37 CFR 1.497 which has been executed by either the legal representative of the deceased inventor or, if no legal representative has been appointed, all of the heirs of the deceased inventor.

Any further correspondence with respect to this matter should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42" and be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (703) 308-6314
Fax: (703) 308-6459

07 MAY 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Steven L. Oberholtzer
Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago, Illinois 60610

In re Application of :
GOENKA et al. :
Application No.: 10/148,932 :
PCT No.: PCT/US01/31150 :
Int. Filing Date: 03 October 2001 :
Priority Date: 03 October 2000 :
Attorney Docket No.: 10541-1434 :
For: SYSTEM AND METHOD FOR MOUNTING ELECTRONIC COMPONENTS ONTO FLEXIBLE SUBSTRATES

DECISION ON
PAPERS UNDER 37 CFR 1.42

This is a response to "Renewed Submission under 37 CFR 1.42" filed 18 March 2003. No petition fee is required.

BACKGROUND

On 03 October 2001, applicants filed international application PCT/US01/31150, which claimed a priority date of 03 October 2000. A Demand was not filed with the International Preliminary Examining Authority. As a result, the deadline for payment of the basic national fee was to expire 20 months from the priority date, 03 June 2002.

On 03 June 2002, applicants filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee and a preliminary amendment.

On 09 August 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497 and the surcharge fee required under 37 CFR 1.492(e). The notification set a two-month time limit in which to respond.

On 28 October 2002, applicants filed a declaration and power of attorney executed by Lakhi Nandlal Goenka; Peter Joseph Sinkunas; Charles Frederick Schweitzer; Mark Miller; Raymond Eric Foster; Stephen Edward Fuks; and Thomas B. Krautheim as inventors and Jason Bullock on behalf of deceased inventor Lawrence Lernel Bullock. In a decision dated 28 Janaury 2003, applicants' request under 37 CFR 1.42 was dismissed without prejudice.

On 18 March 2003, applicants filed "Renewed Submission under 37 CFR 1.42."

DISCUSSION

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

Section 409.01(a) of the Manual of Patent Examining Procedure (MPEP) states that the application can also be executed by "all of the heirs" of the deceased inventor, where no legal representative has been appointed.

The declaration submitted on 18 March 2003 was executed by Jason Bullock and Shona Bullock as "first of two heirs" and "second of two heirs" to the deceased inventor Lawrence Lernel Bullock. The declaration has been executed by the proper parties under 37 CFR 1.42, however, the declaration does not satisfy the requirements under 37 CFR 1.497(b)(2).

In addition, it is noted that revised 37 CFR 1.497(b)(2) states the following:

> (2) If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, or § 1.47) the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative.

Pursuant to revised 37 CFR 1.497(b)(2), in addition to the citizenship and former residence and post office address of the deceased inventor referenced under 37 CFR 1.497(a)(3) and 37 CFR 1.63, the declaration must also provide residence, citizenship, and post office address for the signing heir. The declaration filed on 18 March 2003 provides this information with respect to the signing heir, but not the inventor. Accordingly, the declaration is not in compliance with 37 CFR 1.497(a)(3) and 37 CFR 1.63.

Additionally, the declaration is not in compliance with 37 CFR 1.497 (a)-(b) in that it gives the impression that Jason Bullock and Shona Bullock are the fourth and fifth inventors for the present application. A compliant declaration under 37 CFR 1.497 (a)-(b) would identify the inventors as they appear in the published International Application. In order to proceed under 37 CFR 1.42 applicant must provide a declaration which sets forth the residence, post office address and country of citizenship for both the deceased co-inventor, Lawrence Lernel Bullock and the heirs, Jason Bullock and Shona Bullock. In addition, the declaration must state the relationship, i.e. legal representative or sole heirs, of Jason Bullock and Shona Bullock to the deceased inventor.

The submission of the declaration executed by all of the heirs of the deceased inventor is hereby construed as an indication that no legal representative of the deceased's estate has been appointed or is statutorily required to be appointed. If this interpretation is incorrect applicant is required to promptly notify the Office of such and to submit a declaration properly executed by the legal representative of the deceased inventor in response to this decision.

CONCLUSION

For the above reasons, the renewed request for status under 37 CFR 1.42 is **REFUSED**.

Applicant is required to provide an oath/declaration in compliance with 37 CFR 1.497(a)-(b) within **TWO (2) MONTH** from the mail date of this Decision. Failure to respond will result in the abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42" and must include an acceptable declaration under 37 CFR 1.497 which has been executed by either the legal representative of the deceased inventor or, if no legal representative has been appointed, all of the heirs of the deceased inventor.

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (703) 308-6314
Fax: (703) 308-6459

07 MAY 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Steven L. Oberholtzer
Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago, Illinois 60610

In re Application of
GOENKA et al.
Application No.: 10/148,932
PCT No.: PCT/US01/31150
Int. Filing Date: 03 October 2001
Priority Date: 03 October 2000
Attorney Docket No.: 10541-1434
For: SYSTEM AND METHOD FOR MOUNTING ELECTRONIC COMPONENTS ONTO FLEXIBLE SUBSTRATES

DECISION ON
PAPERS UNDER 37 CFR 1.42

This is a response to "Renewed Submission under 37 CFR 1.42" filed 18 March 2003. No petition fee is required.

BACKGROUND

On 03 October 2001, applicants filed international application PCT/US01/31150, which claimed a priority date of 03 October 2000. A Demand was not filed with the International Preliminary Examining Authority. As a result, the deadline for payment of the basic national fee was to expire 20 months from the priority date, 03 June 2002.

On 03 June 2002, applicants filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee and a preliminary amendment.

On 09 August 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497 and the surcharge fee required under 37 CFR 1.492(e). The notification set a two-month time limit in which to respond.

On 28 October 2002, applicants filed a declaration and power of attorney executed by Lakhi Nandlal Goenka; Peter Joseph Sinkunas; Charles Frederick Schweitzer; Mark Miller; Raymond Eric Foster; Stephen Edward Fuks; and Thomas B. Krautheim as inventors and Jason Bullock on behalf of deceased inventor Lawrence Lernel Bullock. In a decision dated 28 Janaury 2003, applicants' request under 37 CFR 1.42 was dismissed without prejudice.

On 18 March 2003, applicants filed "Renewed Submission under 37 CFR 1.42."

BRINKS HOFER GILSON & LIONE
RECEIVED
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U. S. DOCKET

DISCUSSION

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

Section 409.01(a) of the Manual of Patent Examining Procedure (MPEP) states that the application can also be executed by "all of the heirs" of the deceased inventor, where no legal representative has been appointed.

The declaration submitted on 18 March 2003 was executed by Jason Bullock and Shona Bullock as "first of two heirs" and "second of two heirs" to the deceased inventor Lawrence Lernel Bullock. The declaration has been executed by the proper parties under 37 CFR 1.42, however, the declaration does not satisfy the requirements under 37 CFR 1.497(b)(2).

In addition, it is noted that revised 37 CFR 1.497(b)(2) states the following:

> (2) If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, or § 1.47) the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative.

Pursuant to revised 37 CFR 1.497(b)(2), in addition to the citizenship and former residence and post office address of the deceased inventor referenced under 37 CFR 1.497(a)(3) and 37 CFR 1.63, the declaration must also provide residence, citizenship, and post office address for the signing heir. The declaration filed on 18 March 2003 provides this information with respect to the signing heir, but not the inventor. Accordingly, the declaration is not in compliance with 37 CFR 1.497(a)(3) and 37 CFR 1.63.

Additionally, the declaration is not in compliance with 37 CFR 1.497 (a)-(b) in that it gives the impression that Jason Bullock and Shona Bullock are the fourth and fifth inventors for the present application. A compliant declaration under 37 CFR 1.497 (a)-(b) would identify the inventors as they appear in the published International Application. In order to proceed under 37 CFR 1.42 applicant must provide a declaration which sets forth the residence, post office address and country of citizenship for both the deceased co-inventor, Lawrence Lernel Bullock and the heirs, Jason Bullock and Shona Bullock. In addition, the declaration must state the relationship, i.e. legal representative or sole heirs, of Jason Bullock and Shona Bullock to the deceased inventor.

The submission of the declaration executed by all of the heirs of the deceased inventor is hereby construed as an indication that no legal representative of the deceased's estate has been appointed or is statutorily required to be appointed. If this interpretation is incorrect applicant is required to promptly notify the Office of such and to submit a declaration properly executed by the legal representative of the deceased inventor in response to this decision.

CONCLUSION

For the above reasons, the renewed request for status under 37 CFR 1.42 is **REFUSED**.

Applicant is required to provide an oath/declaration in compliance with 37 CFR 1.497(a)-(b) within **TWO (2) MONTH** from the mail date of this Decision. Failure to respond will result in the abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42" and must include an acceptable declaration under 37 CFR 1.497 which has been executed by either the legal representative of the deceased inventor or, if no legal representative has been appointed, all of the heirs of the deceased inventor.

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith
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Tel: (703) 308-6314
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UNITED STATES PATENT AND TRADEMARK OFFICE

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

10 SEP 2003

Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago, Illinois 60610

In re Application of
GOENKA et al.
Application No.: 10/148,932
PCT No.: PCT/US01/31150
Int. Filing Date: 03 October 2001
Priority Date: 03 October 2000
Attorney Docket No.: 10541-1434
For: SYSTEM AND METHOD FOR MOUNTING ELECTRONIC COMPONENTS ONTO FLEXIBLE SUBSTRATES

DECISION ON
PAPERS UNDER 37 CFR 1.42

This is a response to the (second) "Renewed Submission under 37 CFR 1.42" filed 01 August 2003. No petition fee is required.

BACKGROUND

On 03 October 2001, applicants filed international application PCT/US01/31150, which claimed a priority date of 03 October 2000. A Demand was not filed with the International Preliminary Examining Authority. As a result, the deadline for payment of the basic national fee was to expire 20 months from the priority date, 03 June 2002.

On 03 June 2002, applicants filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee and a preliminary amendment.

On 09 August 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497 and the surcharge fee required under 37 CFR 1.492(e). The notification set a two-month time limit in which to respond.

On 28 October 2002, applicants filed a declaration and power of attorney executed by Lakhi Nandlal Goenka; Peter Joseph Sinkunas; Charles Frederick Schweitzer; Mark Miller; Raymond Eric Foster; Stephen Edward Fuks; and Thomas B. Krautheim as inventors and Jason Bullock on behalf of deceased inventor Lawrence Lernel Bullock. In a decision dated 28 Janaury 2003, applicants' request under 37 CFR 1.42 was dismissed without prejudice.

On 18 March 2003, applicants filed "Renewed Submission under 37 CFR 1.42." In a decision dated 07 May 2003, applicants' request under 37 CFR 1.42 was dismissed without prejudice.

On 01 August 2003, applicants filed "Renewed Submission under 37 CFR 1.42" and a one month extension of time of fee.

DISCUSSION

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

The declaration submitted on 01 August 2003 is executed by Jason Bullock and Shona Bullock as "legal represenatives" of the deceased inventor, Lawrence Lernel Bullock. The declaration is acceptable under 37 CFR 1.42 and complies with 37 CFR 1.497(a)-(b). Accordingly, the requirements for entry into national stage under 35 U.S.C. 371(c) were completed as of 01 August 2003.

CONCLUSION

The papers filed under 37 CFR 1.42 are **ACCEPTED**.

The application has an international filing date of 03 October 2001 under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of 01 August 2003.

This application is being forwarded to the National Stage Processing Branch of the International Division for continued national stage processing.
Administration.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (703) 308-6314
Fax: (703) 308-6459

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.
10/148,935	08/14/2002	Christopher W Gabrys	IGG2208US	8776

7590 04/29/2008

J. Michael Neary
53939 Pine Grove Road
LaPine, OR 97739

EXAMINER
KIM, CHONG HWA

ART UNIT	PAPER NUMBER
2167	

MAIL DATE	DELIVERY MODE
04/29/2008	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED
FROM DIRECTORS OFFICE

APR 2 8 2008

TECHNOLOGY CENTER 3600

J. MICHAEL NEARY
53939 PINE GROVE ROAD
LAPINE, OR 97739

In re Application of :
Christopher W. Gabrys :
Application No. 10/148,935 :
Filed: August 14, 2002 :
For: **STACKED DISC FLYWHEEL** :

DECISION ON PETITION UNDER 37 CFR 1.181

This is a decision on Applicant's Petition under 37 CFR 1.181, filed on July 6, 2006, to have held that the examiner made a new grounds of rejection in the Examiner's Answer dated April 28, 2006.

The Petition is **DISMISSED as MOOT**.

A review of the file record reveals that applicant filed a reply brief on July 6, 2006. The reply brief was entered and considered by the examiner on September 13, 2006.

The application has gone before the Board of Patent Appeals and Interferences and was allowed on May 3, 2007. Accordingly, the issue raised in the petition is now moot.

Any questions regarding this decision should be directed to Supervisory Patent Examiner Richard Ridley at 571-272-6917.

Kathy Matecki

Kathy Matecki, Director
Technology Center 3600
572-272-5250

TR

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LADAS & PARRY
26 WEST 61ST STREET
NEW YORK NY 10023

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MAY 11 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Aubanel :
Application No. 10/148,950 :
Filed: August 23, 2002 :
Attorney Docket No. U 014046-0 :
For: SLEEVE COMPRISING MEANS FOR FIXING PRINTING PLATES AND METHOD FOR MAKING SAME

This is a decision on the petition, filed March 27, 2006, under 37 CFR 1.137(b) to revive the above-identified application.

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the September 22, 2005 non-final Office action. No response being received and no extensions of time being obtained, this application became abandoned on December 23, 2005. No Notice of Abandonment has been mailed.

Applicant has submitted an amendment in reply to the September 22, 2005 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the September 22, 2005 non-final Office action, and the petition fee.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 2854 for consideration of the amendment filed on March 27, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MILLEN WHITE ZELANO & BRANIGAN PC
2200 CLARENDON BOULEVARD, SUITE 1400
ARLINGTON, VA 22201

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JUN 14 2005

OFFICE OF PETITIONS

In re Application of	:	
Gerald M. Rosen	:	
Application No. 10/148,962	:	DECISION GRANTING PETITION
Filed: November 4, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. ROSEN 18	:	

This is a decision on the petition, filed June 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 March 4, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1616 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

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).*

OIPE IAP87
JAN 03 2007
PATENT & TRADEMARK OFFICE

c.o.j.c

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

U.S. Patent No.: 6,991,778 B2

Serial No. : 10/148,962

Filed : November 4, 2002

Issued : January 31, 2006

For : USE OF DENDRIMERS POLY-FUNCTIONALIZED WITH NITROXIDE GROUPS AS CONTRAST ENHANCING AGENTS IN MRI IMAGING OF JOINTS AND INJECTABLE COMPOSITIONS COMPRISING THEM

PETITION FOR CERTIFICATE OF CORRECTION
PURSUANT TO 37 C.F.R. § 1.322 OR § 1.323

Certificate

JAN 0 8 2007

of Correction

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

Sir:

OK to Enter 1/8/07

Applicants hereby request that the above-identified U.S. patent be corrected in accordance with the attached Certificate of Correction.

I. C.F.R. § 1.322

☒ The mistake(s) were incurred through the fault of the Patent and Trademark Office and are clearly disclosed in the records of the Office. Therefore, no fee is due.

II. C.F.R. § 1.323

☐ At least some of the mistakes was/were made by the applicant. Therefore, a check in the amount of $100.00 in payment of the fee set forth in 37 C.F.R. § 1.20(a) is enclosed herewith.

Enclosed herewith is a Form PTO-1050 (in duplicate) listing errors that have been found in the above-identified patent. The error(s) are of a clerical or typographical nature or of minor character and were made in good faith. The requested correction(s) do not constitute new matter or require reexamination.

JAN 1 1 2007

PTO/SB/ 44 (08-00)
Approved for use through 09/30/2000. 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

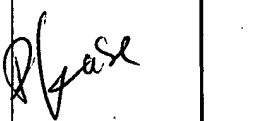
PATENT NO : 6,991,778 B2

DATED : January 31, 2006

INVENTOR(S) : Gerald M. ROSEN

It is certified that error appears in the above-identified patent and that said Letters Patent are hereby corrected as shown below:

Column 12, line 41, delete entire formula (III) "



—N-alkylene-R (III)
|
R'''

"

Column 14, line 26, reads "Formual IV" should read -- Formula IV --

Please Enter
VC
5/31/07

MAILING ADDRESS OF SENDER: Millen, White, Zelano & Branigan
2200 Clarendon Blvd. Suite 1400
Arlington, VA 22201

PATENT NO. 6,991,778 B2

No. of additional copies

Burden Hour Statement: This form is estimated to take 1.0 hour 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.

JAN 1 1 2007

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2-1-07

TO SPE OF : ART UNIT 1618

SUBJECT : Request for Certificate of Correction on Patent No.: 6991778 B2 (14962

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.

Claims

Eva James

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:

MICHAEL G. HARTLEY **SPE** 1618 **Art Unit**
SUPERVISORY PATENT EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KATHLEEN O'REILLY
KILGOBBIN BALLIINSPITTLE
KINSALE, CO CORK
IRELAND

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JUN 15 2004
OFFICE OF PETITIONS

In re Application of :
Crossan, et al. :
Application No. 10/148,968 : ON PETITION
Filed: June 7, 2002 :
Title: HERMAPHRODITIC CONNECTOR SYSTEMS :

This is a decision on the petition under 37 CFR 1.137(b), filed February 4, 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 6, 2003. Accordingly, this application became abandoned on September 7, 2003. A Notice of Abandonment was mailed on January 30, 2004.

The file is being forwarded to Technology Center 2800, for review of the reply submitted January 6, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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NIXON & VANDERHYE
EIGHTH FLOOR
1100 NORTH GLEBE ROAD
ARLINGTON, VA 22201-4714

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JUL 2 6 2004

OFFICE OF PETITIONS

In re Application of :
Arthur Richard Horrocks et al :
Application No. 10/148,970 : ON PETITION
Filed: June 17, 2002 :
Attorney Docket No. 604-639 :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 4, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 5, 2003.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of a continuing application No. 10/839,264 .

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685.

This application is being referred to Files Repository.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Browdy & Neimark
624 Ninth Street NW
Washington DC 20001-5303

In re Patent No. 7,414,038	:	DECISION ON REQUEST
Kinugasa et al.	:	FOR
Issue Date: August 19, 2008	:	RECONSIDERATION OF
Application No. 10/148,971	:	PATENT TERM ADJUSTMENT
Filed: June 10, 2002	:	
Attorney Docket No. KINUGASA=2	:	
Title: Embolic Materials	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(d)" filed October 20, 2008. Patentees request that the patent term adjustment indicated in the patent be corrected from seven hundred fifty-seven (757) to one thousand three hundred nine (1309) days.

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

On August 19, 2008, the above-identified application matured into U.S. Patent No. 7,414,038. The instant request for reconsideration 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 757 days. Patentees request correction of the patent term adjustment to increase the patent term adjustment to 1038 days in that pursuant to 35 U.S.C. § 154(b) the Office failed to issue a patent within three years of the actual filing date of the above-referenced application in accordance with 37 CFR 1.702(b).

Patentees acknowledge that the ability to accumulate additional patent term adjustment against the three-year pendency ended on March 12, 2007 with the filing of a request for continued examination (RCE). The filing of the RCE does not otherwise affect PTA. However, patentees contend that they are entitled to a period of patent term adjustment equal to the period of delays

accrued under 37 CFR §1.702 reduced by the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR §1.704, and that this period was not properly calculated by the Office.

The period of reduction of 1 day for applicant delay is not in dispute.

Patentees maintain that the total period of Office delay is the sum of the period of Three Years Delay (640 days) and the period of Examination Delay (758 days) to the extent that these periods of delay are not overlapping. Patentees state that there were only 88 days which overlapped from June 10, 2005 until September 6, 2005. As such, patentees assert entitlement to a patent term adjustment of 1309 days (640 + 758 - 88 -1).

Patentees' interpretation of the period of overlap has been considered and found to be incorrect.

It is noted that as of the filing date of the RCE, the application had been pending 3 years and 640 days. The Office contends that the entire period of 640 days overlaps with the 758 days of patent term adjustment accorded prior to the issuance of the patent. As such, the Office is of the position that this patent is entitled to a patent term adjustment of 757 days (758 - 1).

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

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

Likewise, 37 CFR 1.703(f) provides that:

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

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of applicants. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has

consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3 year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

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

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

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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).

words, consideration of the overlap does not begin three years after the filing date of the application. Treating the relevant period as starting on June 10, 2005, the date that is 3 years after the actual filing date of the application, is incorrect.

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 until the filing of the RCE, June 10, 2002 to March 12, 2007. During that time, the issuance of the patent was delayed by 758 days, not 758 + 640 days. The Office took 14 months and 758 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 C.F.R. § 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 758 days of Office delay and the 1 day of applicant delay and the time allowed within the timeframes for processing and examination, at the time of the filing of the RCE, the application had been pending 3 years and 640 days. The Office did not delay 758 days and then an additional 640 days. Accordingly, 758 days of patent term adjustment (not 758 and 640 days) was properly entered since the period of delay of 640 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 758 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. 758 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 640 days over three year pendency to the filing of the RCE. Accordingly, at issuance, the Office properly entered 0 additional days of patent term adjustment specifically for the Office taking in excess of 3 years to issue the patent.

In view thereof, the instant patent is not entitled to further adjustment.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 16, 2010

TO SPE OF : ART UNIT 2836

SUBJECT : Request for Certificate of Correction for Appl. No.: 10149003
Patent No.: 7675190

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 – 9D40-C
Palm Location 7580

Certificates of Correction Branch

703-756-1573

Thank You For Your Assistance

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

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

Comments: The certificate of correction has been approved since the changes do not introduce new matter or change the scope or meaning of the claims.

Jared Fureman
Jared Fureman — **SPE**

2836 — **Art Unit**

09 MAR 2004

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Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P.
1300 I Street, N.W.
Washington, DC 20005-3315

In re Application of LEGRAND et al
U.S. Application No.: 10/149,008
PCT Application No.: PCT/FR00/03144
Int. Filing Date: 10 November 2000
Priority Date Claimed: 08 December 1999
Attorney Docket No.: 05725.1070
For: COMPOSITION FOR PERMANENT BLEACHING OR DEFORMATION OF KERATIN FIBERS COMPRISING A THICKENED POLYMER WITH AN AMINOPLASTIC ETHER SK ELETON

DECISION

This is in response to applicant's "Response to Notification of Missing Requirements Under 35 U.S.C. 371" filed 21 October 2002 and "Request for Official Filing Receipt" filed 17 December 2003, which together are being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 10 November 2000, applicant filed international application PCT/FR00/03144, which claimed priority of an earlier France application filed 08 December 1999. A copy of the international application was communicated to the USPTO from the International Bureau on 14 June 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 15 May 2001, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired on 08 June 2002.

On 07 June 2002, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 06 August 2002, applicant purportedly filed an executed declaration.

On 19 August 2002, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 21 October 2002, applicant filed a copy of the declaration purportedly filed on 06 August 2002.

On 17 December 2003, applicant filed a request for an official filing receipt.

DISCUSSION

The evidence of record is sufficient to establish that the declaration was originally filed on 06 August 2002. Specifically, the copy of the return postcard, which includes the declaration in its itemized contents and which bears a USPTO date stamp of 06 August 2002, serves as *prima facie* evidence that the declaration was received by the USPTO on 06 August 2002.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 10 November 2000, and a date under 35 U.S.C. 371(c) of 06 August 2002.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

27 DEC 2004

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Washington, DC 20005-3315

In re Application of LEGRAND et al
U.S. Application No.: 10/149,008
PCT Application No.: PCT/FR00/03144
Int. Filing Date: 10 November 2000
Priority Date Claimed: 08 December 1999
Attorney Docket No.: 05725.1070
For: COMPOSITION FOR PERMANENT BLEACHING OR DEFORMATION OF KERATIN FIBERS COMPRISING A THICKENED POLYMER WITH AN AMINOPLASTIC ETHER SKELETON

DECISION

This is in response to applicant's "Request for correction of Notice of Acceptance" and "Request for Correction of Filing Receipt" filed 09 July 2004.

On 09 March 2004, this Office mailed a decision which accorded the application a date under 35 U.S.C. 371 (c)(1), (c)(2), and (c)(4) of 06 August 2002.

On 12 March 2004, the DO/EO/US mailed a Notice of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903) along with a filing receipt. Both papers indicated a date of 06 August 2003 under 35 U.S.C. 371 (c)(1), (c)(2), and (c)(4).

On 09 July 2004, applicant filed the present request for correction of the Notice of Acceptance and request for corrected filing receipt.

The request for correction of the Notice of Acceptance and request for corrected filing receipt are GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a corrected Notice of Acceptance of Application Under 35 U.S.C. 371 (Form

PCT/DO/EO/903) and a corrected filing receipt, both of which should indicate a date under 35 U.S.C. 371 (c)(1), (c)(2), and (c)(4) of 06 August 2002.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

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Washington DC 20005

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OFFICE OF PETITIONS

In re :
LeGrand et al. :
Application No. 10/149/008 : RECONSIDERATION OF
Filing Date: August 8, 2002 : PATENT TERM ADJUSTMENT
Attorney Docket: 05725.1070 :

This decision is in response to applicants' APPLICATION FOR PATENT TERM ADJUSTMENT timely[1] filed on January 13, 2005 requesting that the Office adjust the PTA calculation at the time of the notice of allowance from a determination of eight (8) days to a determination of ZERO (220) days.

The applicants' request for PTA reconsideration is **GRANTED to the extent herein indicated.** The Office will adjust the PTA determination at the time of the mailing of the notice of allowance to reflect three hundred and seventy-three (373) days.

Applicants assert that Office determination of eight (8) days is inaccurate. Applicants assert that the Office erred in determining that the fourteen-month requirement under 37 CFR 1.702(a)(1) began on August 6, 2003 rather than the date of August 6, 2002. Applicants assert that a petition was granted on December 27, 2004 in which the Office acknowledged it erred in citing August 6, 2003 as the date of the completion of all of the 35 U.S.C. 371 requirements. Applicants assert that the amount of time more than 14 months to initially act upon the application amounted to three hundred and seventy-three (373) days. However, applicants acknowledge submission of a terminal disclaimer and assert that the terminal disclaimer would limit the amount of PTA to 220 days of PTA.

[1]Issue fee paid on January 13, 2005.

Applicants' arguments are persuasive to the extent herein indicated. The record reflects that the date of completion of the 371 requirements was August 6, 2002, not August 6, 2003. Accordingly the Office miscalculated the 37 CFR 1.702(a)(1) requirement by a period of three hundred and seventy-three (373) days. There was no applicant delay on the part of applicants and accordingly at the time of the mailing of the notice of allowance the correct amount of PTA is three hundred and seventy-three (373) days.

The Office notes applicants' good faith and candor comment relating to the effect upon the PTA by the filing of the terminal disclaimer. The Office does not determine the consequences of the submission of the terminal disclaimer on the PTA calculation. Rather the Office provides notice on the front of the patent that "Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by ___ days." Accordingly, it is incumbent upon applicants to ascertain what limiting effect the submission of the terminal disclaimer will have upon the expiration date of the patent.

After the mailing of this decision, the file will be forwarded to the Office of Patent Publications for a prompt issuance of the patent. Any delays in issuing the application more than four months from the payment of the issue fee and all other requirements being satisfied will be calculated and provided notice to applicants in the issue notification letter that is provided to applicants approximately three weeks prior to issuance of the application.

Applicants have provided the required $200.00 fee. No additional fees are required in the determination of this request.

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

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

cc: Adjusted PTA calculation

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WASHINGTON DC 20001-4413

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SEP 30 2008

OFFICE OF PETITIONS

In re Patent No. 6,984,250	:	DECISION ON REQUEST FOR
LEGRAND et al.	:	RECONSIDERATION OF
Issue Date: January 10, 2006	:	PATENT TERM ADJUSTMENT
Application No.: 10/149,008	:	AND NOTICE OF INTENT TO ISSUE
Filed: August 6, 2002	:	CERTIFICATE OF CORRECTION
Attorney Docket No. 05725.1070	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)," filed March 8, 2006. Patentees request that the Patent Term Adjustment for the above-identified patent be set at 615 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 on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **616 days**.

On January 10, 2006, the above-identified application matured into U.S. Patent No. 6,984,250. The present request for reconsideration was timely filed on March 8, 2006, within two (2) months of the date the patent issued. See 37 CFR 1.705(d). The patent issued with a revised Patent Term Adjustment of 522 days.

Patentees assert that the Office should have been assessed a delay pursuant to 37 CFR 1.703(a)(6) for failing to issue the patent within four (4) months of the date the issue fee was paid.

The application history has been reviewed and it has been determined that the Patent Term Adjustment of 522 days is incorrect.

Pursuant to 37 CFR 1.703(a)(6), the period of adjustment of the patent term due to the failure of the Office to take action within a specified time frame is the sum of the following periods:

> (6) The number of days, if any, in the period beginning on the day after the date that is four months after the date the issue fee was paid and all outstanding requirements were satisfied and ending on the date the patent issued.

Patentees paid the issue fee on January 13, 2005. Thereafter, the patent issued on January 10, 2006. Accordingly, the period of adjustment is 242 days, the number of days in the period beginning on the day after the date that is four months after the date the issue fee was paid, May 14, 2005, and ending on the date the patent issued, January 10, 2006. Thus, the period of adjustment of 242 days will be entered.

The Office notes that upon further view, the decision of November 25, 2005, incorrectly indicated that the period of adjustment under 37 CFR 1.703(a)(1) 1s 373 days instead of 374 days.

Pursuant to 37 CFR 1.703(a)(1), the period of adjustment of the patent term due to the failure of the Office to take action within a specified time frame is the sum of the following periods:

> (1) The number of days, if any, in the period beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first.

Accordingly, the period of adjustment is 374 days (not 373 days), counting the number of days in the period beginning on the day after the date that is fourteen months after the date on which the requirement of 35 U.S.C. 371 were fulfilled, October 7, 2003, and ending on the date of mailing the notice of allowance, October 14,

2004. Thus, the period of adjustment of 373 days will be removed and the period of adjustment of 374 days will be entered.

The payment of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fee is required.

This matter is being referred to the Certificate 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 **616 days.**

Telephone inquiries regarding this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 6,984,250 B1

DATED : Jan. 10, 2006

INVENTOR(S) : Legrand 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 (522) days

Delete the phrase "by 522 days" and insert – by 616 days--

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
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DATE: July 27, 2005

Benton S. Duffett, Jr.
BURNS, DOANE, SWECKER & MATHIS, LLP
P. O. Box 1404
Alexandria, VA 22313-1404

Patent No: 6890352 B1
Applicant: Jan Lentell
Issued: May 10, 2005
Title: VESSEL VALVE

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 Rules 1.323.

The word angel purported to be in column 1, line1, cannot be located found in the printed patent.

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

Correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Virginia Tolbert
For Cecelia Newman, Supervisor
Decisions and Certificates of Correction
(703) 305-8309 or 305-1882

vt

01 MAY 2003

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Raymond J. Vivacqua
Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago, IL 60610

In re Application of	
Goenka et al.	DECISION ON
Application No.: 10/149,031	
PCT No.: PCT/US01/31122	REQUEST UNDER
Int. Filing Date: 03 October 2001	
Priority Date: 03 October 2000	37 CFR 1.42
Attorney's Docket No.:10541-1412	
For: SYSTEM AND METHOD FOR MOUNTING ELECTRONIC COMPONENTS ONTO FLEXIBLE SUBSTRATES	

This is a decision is in response to the papers filed 28 October 2002 which are being treated as a request under 37 CFR 1.42.

BACKGROUND

On 03 October 2001, applicants filed international application PCT/US01/31122, which claimed priority of an earlier United States Provisional application filed 03 October 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 11 April 2002. A Demand for international preliminary examination was not filed Accordingly, the twenty-month period for paying the basic national fee in the United States expired at midnight on 03 June 2002.

On 03 June 2002, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, an information disclosure statement, a preliminary amendment and the requisite basic national fee as required by 35 U.S.C. 371(c)(1).

On14 August 2002, the United States Patent and Trademark Office in its capacity as an Elected Office mailed the "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) indicating that applicant was required to file an oath/declaration and a surcharge fee.

On 28 October 2002, applicants filed the current response which included an executed declaration for inventors Charles Schweitzer, Mark Miller, Jay Baker, Karen Chiles and Achyuta Achari. Applicants also included a second declaration executed by Jason Bullock as heir to Lawrence Bullock.

DISCUSSION

Applicant's declarations are being treated as a request under 37 CFR 1.42.

With respect to applicants' declarations in the current application, 37 CFR 1.42 states, in part:

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

37 CFR 1.497 states, in part:

> (a) When an applicant of an international application desires to enter the national stage under 35U.S.C. 371 pursuant to 1.494 or 1.495, he or she must file an oath or declaration that:
> (1) Is executed in accordance with either 1.66 or 1.68;
> (2) Identifies the specification to which it is directed;
> (3) Identifies each inventor and the country of citizenship of each inventor; and
> (4) States that the person making the oath or declaration believes the named inventor or inventors to be the original and first inventor or inventors of the subject matter which is claimed and for which a patent is sought.
> (b) (1) The oath or declaration must be made by all of the actual inventors except as provided for in 1.42, 1.43 or 1.47.
> (2) If the person making the oath or declaration is not the inventor, the oath or declaration shall state the relationship of the person to the inventor, the facts required by 1.42, 1.43 or 1.47, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence and mailing address of the legal representative.

The declarations filed 28 October 2002 fail to properly identify the citizenship, residence and mailing address of both the legal representative and the deceased inventor. Accordingly, the declaration is not acceptable under 37 CFR 1.497. Further, it is unclear if Jason Bullock is the only heir for Lawrence Bullock, and also if he is the legal representative.

CONCLUSION

Applicants' request under 37 CFR 1.42 is **DISMISSED** without prejudice.

If reconsideration of this decision is desired, a proper response, i.e., a declaration in compliance with 37 CFR 1.497(a)-(b), must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Request Under 37 CFR 1.42". Extensions of time may be obtained under 37 CFR 1.136(a). **FAILURE TO RESPOND WITH RESULT IN ABANDONMENT OF THE APPLICATION.**

Applicant is advised that, effective May 1, 2003, the Office is changing its correspondence address. Any further correspondence with respect to this matter deposited with the United States Postal Service on or after May 1, 2003 should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Debra S. Brittingham
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Leonard Smith
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16 SEP 2003

#8

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Raymond J. Vivacqua
Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago, IL 60610

In re Application of	
Goenka et al.	DECISION ON
Application No.: 10/149,031	
PCT No.: PCT/US01/31122	RENEWED REQUEST
Int. Filing Date: 03 October 2001	
Priority Date: 03 October 2000	UNDER 37 CFR 1.42
Attorney's Docket No.:10541-1412	
For: SYSTEM AND METHOD FOR MOUNTING ELECTRONIC COMPONENTS ONTO FLEXIBLE SUBSTRATES	

This is a decision is in response to the "RENEWED SUBMISSION UNDER 37 CFR §1.42" submitted on the 01 August 2003. No further petition fee is due.

BACKGROUND

On 03 October 2001, applicants filed international application PCT/US01/31122, which claimed priority of an earlier United States Provisional application filed 03 October 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 11 April 2002. A Demand for international preliminary examination was not filed Accordingly, the twenty-month period for paying the basic national fee in the United States expired at midnight on 03 June 2002.

On 03 June 2002, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, an information disclosure statement, a preliminary amendment and the requisite basic national fee as required by 35 U.S.C. 371(c)(1).

On 14 August 2002, the United States Patent and Trademark Office in its capacity as an Elected Office mailed the "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) indicating that applicant was required to file an oath/declaration and a surcharge fee.

On 28 October 2002, applicants filed an executed declaration for inventors Charles Schweitzer, Mark Miller, Jay Baker, Karen Chiles and Achyuta Achari. Applicants also included a second declaration executed by Jason Bullock as heir to Lawrence Bullock. These declarations were construed as a petition under 37 CFR 1.42.

On 01 May 2003, a decision was mailed to applicants which indicated that applicants had failed to properly identify the citizenship, residence and mailing address of both the legal representative and the deceased inventor. Further, it was not clear that Jason Bullock was the only heir for Lawrence Bullock, and also that he was the legal representative.

DISCUSSION

The declarations filed 01 August 2003 now identify both Jason Bullock and Shona Bullock as Legal Representatives for Lawrence Lernel Bullock. Further, applicants have now provided the citizenship, residence and mailing address of both of the legal representatives and the deceased inventor. However, it is unclear if Jason and Shona Bullock are the only heirs for Lawrence Bullock, and also if they are the only legal representatives. The declaration must indicate that Jason Bullock and Shona Bullock are the only heirs or are the legal representatives for the deceased to accept the application under 37 CFR 1.42. Alternatively, applicants' attorney may file a statement certifying that Jason Bullock and Shona Bullock are the only heirs or the legal representative.

CONCLUSION

Applicants' request under 37 CFR 1.42 is **DISMISSED** without prejudice.

If reconsideration of this decision is desired, a proper response, i.e., a declaration in compliance with 37 CFR 1.497(a)-(b), must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Request Under 37 CFR 1.42". Extensions of time may be obtained under 37 CFR 1.136(a). **FAILURE TO RESPOND WITH RESULT IN ABANDONMENT OF THE APPLICATION.**

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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09 JAN 2004

#10

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Chicago, IL 60610

In re Application of	:
Goenka et al.	: DECISION ON
Application No.: 10/149,031	:
PCT No.: PCT/US01/31122	: RENEWED REQUEST
Int. Filing Date: 03 October 2001	:
Priority Date: 03 October 2000	: UNDER 37 CFR 1.42
Attorney's Docket No.:10541-1412	:
For: SYSTEM AND METHOD FOR MOUNTING ELECTRONIC COMPONENTS ONTO FLEXIBLE SUBSTRATES	:

This is a decision is in response to the "RENEWED REQUEST UNDER 37 CFR §1.42" submitted on the 02 October 2003. No further petition fee is due.

BACKGROUND

On 03 October 2001, applicants filed international application PCT/US01/31122, which claimed priority of an earlier United States Provisional application filed 03 October 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 11 April 2002. A Demand for international preliminary examination was not filed Accordingly, the twenty-month period for paying the basic national fee in the United States expired at midnight on 03 June 2002.

On 03 June 2002, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, an information disclosure statement, a preliminary amendment and the requisite basic national fee as required by 35 U.S.C. 371(c)(1).

On14 August 2002, the United States Patent and Trademark Office in its capacity as an Elected Office mailed the "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) indicating that applicant was required to file an oath/declaration and a surcharge fee.

On 28 October 2002, applicants filed an executed declaration for inventors Charles Schweitzer, Mark Miller, Jay Baker, Karen Chiles and Achyuta Achari. Applicants also included a second declaration executed by Jason Bullock as heir to Lawrence Bullock. These declarations were construed as a petition under 37 CFR 1.42.

On 01 May 2003, a decision was mailed to applicants which indicated that applicants had failed to properly identify the citizenship, residence and mailing address of both the legal representative and the deceased inventor. Further, it was not clear that Jason Bullock was the only heir for Lawrence Bullock, and also that he was the legal representative.

On 01 August 2003, applicants filed declarations indicating the citizenship, residence and mailing address of both of the legal representatives and the deceased inventor. A decision was mailed on 16 September 2003 indicating that it was unclear whether or not Jason and Shona Bullock are the only heirs for Lawrence Bullock, and also if they are the only legal representatives.

On 02 Ocotober 2003, applicants filed the current petition. Applicants included a statement by their attorney which indicates that Jason and Shona Bullock are the only heirs for Lawrence Bullock, and they are the only legal representatives.

DISCUSSION

The submission of the declaration executed by all of the heirs of the deceased inventor is hereby construed as an indication that no legal representative of the deceased's estate has been appointed and that no legal representative is required by the applicable law to be appointed. If this interpretation is incorrect applicant is required to promptly notify the Office of such and to submit a declaration properly executed by the legal representative of the deceased inventor in response to this decision.

CONCLUSION

Applicants' request under 37 CFR 1.42 is **GRANTED**.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision; and, if appropriate, a Notification of Acceptance of Application (Form PCT/DO/EO/903) will be mailed showing a 35 U.S.C. 371 date of 01 August 2003.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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DEC 15 2009

OFFICE OF PETITIONS

In re Application of :
Cyril Chaput et al. :
Application No. 10/149,052 : ON PETITION
Filed: November 22, 2002 :
Attorney Docket No. **701826-052760** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 8, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 12, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 13, 2009.

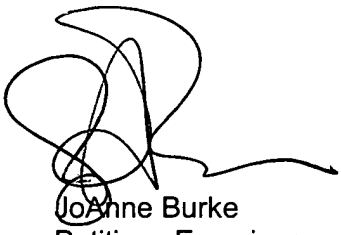
The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

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. 12/575,765.

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 be acknowledged as the attorney of record in this application, the appropriate power of attorney document must be submitted.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.



JoAnne Burke
Petitions Examiner
Office of Petitions

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DEC 10 2009

OFFICE OF PETITIONS

In re Application of :
Cyril Chaput et al. :
Application No. 10/149,053 : ON PETITION
Filed: December 3, 2002 :
Attorney Docket No. **701826-052770** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 8, 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 March 23, 2009, 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 June 24, 2009.

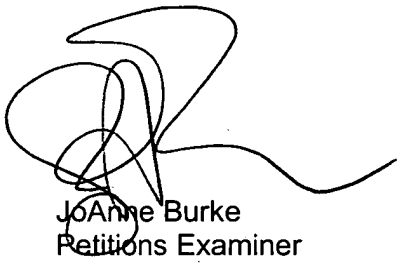
The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

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. 12/575,788.

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 be acknowledged as the attorney of record in this application, the appropriate power of attorney document must be submitted.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.



JoAnne Burke
Petitions Examiner
Office of Petitions

09 MAR 2004

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Gregory P. LaPointe
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In re Application of GRATZER :
U.S. Application No.: 10/149,078 :
PCT Application No.: PCT/AT00/00331 : DECISION
Int. Filing Date: 07 December 2000 :
Priority Date Claimed: 07 December 1999 :
Attorney Docket No.: 02-398 :
For: FORCE-TRANSMISSION UNIT :
COMPRISING SPEED-DEPENDENT
HYDRAULIC CLUTCH AND
CENTRIFUGAL FORCE COMPENSATION

This is in response to applicant's "Response to Notification of Abandonment" filed 14 January 2004, which is being treated as a petition under 37 CFR 1.181.

BACKGROUND

On 07 December 2000, applicant filed international application PCT/AT00/00331, which claimed priority of an earlier Austria application filed 07 December 1999. A copy of the international application was communicated to the USPTO from the International Bureau on 14 June 2001. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired on 07 June 2002.

On 06 June 2002, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 25 September 2002, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 24 December 2003, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned for failure to timely reply to the Notification of Missing Requirements.

On 14 January 2004, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

A review of the application file reveals that the declaration purportedly filed in October 2002 is not present.

MPEP 503 states,

> If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

In the present case, applicant has failed to provide a copy of a properly stamped return postcard receipt. A certificate of mailing does not remedy the lack of a postcard receipt.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181". No additional petition fee is required.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Tung
PCT Legal Examiner
Office of PCT Legal Administration

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15 MAR 2004

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Bachman & LaPointe, P.C.
900 Chapel St. Suite 1201
New Haven, CT 06510-2802

In re Application of GRATZER :
U.S. Application No.: 10/149,078 :
PCT Application No.: PCT/AT00/00331 : DECISION
Int. Filing Date: 07 December 2000 :
Priority Date Claimed: 07 December 1999 :
Attorney Docket No.: 02-398 :
For: FORCE-TRANSMISSION UNIT :
COMPRISING SPEED-DEPENDENT
HYDRAULIC CLUTCH AND
CENTRIFUGAL FORCE COMPENSATION

This is in response to applicant's "Response to Notification of Abandonment" filed 14 January 2004, which is being treated as a petition under 37 CFR 1.8.

BACKGROUND

On 07 December 2000, applicant filed international application PCT/AT00/00331, which claimed priority of an earlier Austria application filed 07 December 1999. A copy of the international application was communicated to the USPTO from the International Bureau on 14 June 2001. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired on 07 June 2002.

On 06 June 2002, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 25 September 2002, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 24 December 2003, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned for failure to timely reply to the Notification of Missing Requirements.

On 14 January 2004, applicant filed a petition under 37 CFR 1.8.

On 09 March 2004, this Office mailed a decision dismissing the 14 January 2004 petition.

DISCUSSION

A review of the application file reveals that the declaration purportedly filed in October 2002 is not present. However, applicant has provided a copy of the declaration along with a certificate of mailing in compliance with 37 CFR 1.8(b).

CONCLUSION

For the reasons above, the petition under 37 CFR 1.8 is GRANTED.

The Notification of Abandonment mailed 24 December 2003 and the decision mailed 09 March 2004 are hereby VACATED.

The application has an international filing date of 07 December 2000 and a date under 35 U.S.C. 371 (c)(1), (c)(2), and (c)(4) of 14 January 2004.

The application is being forwarded to the DO/EO/US for processing in accordance with this decision.

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Facsimile: 703-308-6459

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SEP 15 2005

OFFICE OF PETITIONS

In re Application of :
Arad, et al. :
Application No. 10/149,087 : ON PETITION
Filed: September 13, 2002 :
Attorney Docket No. 10365/08004 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 14, 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 September 7, 2004, which set a one (1) month period for reply. Accordingly, this application became abandoned on October 8, 2004. A Notice of Abandonment was mailed on April 25, 2005.

Please note, pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $1080.00 extension of time submitted with the petition on July 14, 2005 was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to petitioner's deposit account no. 14-0112.

Additionally, the application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03.

Furthermore, there is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted.

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 file is being forwarded to Technology Center 1600 for review of the "Restriction Response," submitted July 14, 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

cc.
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WASHINGTON, D.C. 20005

27 OCT 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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& BERNER, LLP
1700 Diagonal Road, Suite 300/310
Alexandria, VA 22314

In re Application of	:	
Peter Molan	:	
Application No.: 10/149,116	:	
PCT No.: PCT/NZ00/00248	:	
International Filing Date: 11 December 2000	:	DECISION
Priority Date: 09 December 1999	:	
Attorney Docket No.: 1519-004	:	
For: HONEY BASED WOUND DRESSING	:	

This is in response to applicant's communication filed by facsimile on 02 October 2003 which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

BACKGROUND

On 11 December 2000, applicant filed international application PCT/NZ00/00248 which claimed priority to an earlier application filed 09 December 1999. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Therefore, the thirty month period for paying the basic national fee in the United States of America expired at midnight on 10 June 2002 (09 June 2002 being a Sunday).

On 07 June 2002, applicant filed a Transmittal Letter (Form PTO-1390) for entry into the national stage in the United States under 35 U.S.C. 371 accompanied by, *inter alia*, the requisite basic national fee.

On 16 August 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements Under 35 U.S.C. 371 In The United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 and the surcharge under 37 CFR 1.492(e) were

required. The Notification set a response period of two (2) months from the mail date of the Notification or thirty-two (32) months from the priority date, which ever was longer. The Notification indicated that extensions of time under 37 CFR 1.136(a) were available.

On 02 January 2003, the DO/EO/US mailed a Notification Of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to meet the requirements of 35 U.S.C. 371 and 37 CFR 1.495.

On 02 October 2003, applicant filed the instant petition effectively requesting that the Notification Of Abandonment mailed 02 January 2003 be vacated in view of the timely submission of a declaration and surcharge. The petition was accompanied by, *inter alia*, a copy of a cover letter, a copy of a petition for extension of time, a copy of a combined declaration and power of attorney, and a copy of a date-stamped postcard receipt.

DISCUSSION

MPEP at section 503 states, in part:

> "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

Applicant's postcard receipt lists an assignment, extension of time petition, miss. pts. resp./w. decl., and check no. 5465 + 5466 $240.00 + 40.00, and includes a U.S. Patent and Trademark Office (PTO) date stamp of 12 November 2002.

PTO financial records indicate receipt of a $40.00 assignment fee, a $130.00 surcharge, and a $110.00 extension fee on 12 November 2002.

The evidence is sufficient to establish that the executed declaration and required surcharge were filed on 12 November 2002.

CONCLUSION

In view of the above, applicant's petition is **GRANTED**.

The Notification of Abandonment mailed 02 January 2003 is hereby **VACATED**.

The application is being returned to the DO/EO/US for issuance of a Notification Of Acceptance Under 35 U.S.C. 371 (Form PCT/DO/EO/903) indicating a date of 12 November

2002 under 35 U.S.C. 371.

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Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

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OFFICE OF PETITIONS

In re Application of :
Esteban Rivera VEGA :
Application No. 10/149,119 : DECISION GRANTING PETITION
Filed: October 18, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 1501-1058-1 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 25, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed November 15, 2004, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on February 16, 2005.

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

Telephone inquiries concerning this decision should be directed to Betsy L. Deppe at (571) 272-6052 or in her absence, the undersigned at (571) 272-3217.

The application file is being referred to the Office of Patent Publication.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUL 22 2008

OFFICE OF PETITIONS

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

In re Application of :
Peter Geoffrey Watkinson :
Application No. 10/149,123 : ON PETITION
Filed: June 7, 2002 :
Attorney Docket No. 1875.3100000 :

This is a decision on the petitions, filed March 21, 2008 and May 5, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 16, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on October 17, 2007. On March 21, 2008, a petition under 37 CFR 1.137(b) was filed, as well as a Request for Continued Examination (RCE) under 37 CFR 1.114. A Notice of Abandonment was subsequently mailed on April 4, 2008. On May 5, 2008, a second request to revive the application under 37 CFR 1.137(b) was filed.

Continued examination under 37 CFR 1.114 does not apply to an application unless prosecution in the application is closed. Therefore, the RCE filed March 21, 2008 is considered improper. Since the RCE was accompanied by an amendment, the reply will be considered under 37 CFR 1.111. The $810 filing fee paid for the improper RCE is being credited to counsel's deposit account.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) a reply in the form of an amendment; (2) the petition fee of $1,540.00; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 2883 for appropriate action by the Examiner in the normal course of business on the reply received March 21, 2008.

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

11 SEP 2002

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WASHINGTON, D.C. 20231
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Leonard W. Pojunas
SchlumbergerSema Inc.
3000 Mill Creek Avenue, Suite 100
Alpharetta, Georgia 30022

In re Application of	:	
GUION et al..	:	
Application No.: 10/149,132	:	DECISION ON PETITION
PCT No.: PCT/IB01/00739	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 02 May 2001	:	
Priority Date:03 May 2000	:	
Attorney Docket No.: 76.0631US	:	
For: A CARD COMPRISING ELECTRICAL CONTACTS	:	

The petition to revive under 37 CFR 1.137(b) filed 06 June 2002 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has submitted the basic national fee of $890 and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
PCT Legal Office
Telephone: (703) 308-6314
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

30 APR 2003

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WASHINGTON, D.C. 20231
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Leonard W. Pojunas
Schlumbergersema Inc.
30000 Mill Creek Avenue, Suite 100
Alpharetta, GA 30022

In re Application of
GUION et al.
U.S. Application No.: 10/149,132
PCT No.: PCT/IB01/00739
Int. Filing Date: 02 May 2001
Priority Date: 03 May 2000
Attorney Docket No.: 76.0631US
For: A COMPRISING ELECTRICAL CONTACTS

DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicants' "PETITION UNDER 37 CFR 1.47(a)" filed 13 February 2003 to accept the application without the signature of joint-inventor, Etienne Catte. The required petition fee of $130.00 (37 CFR 1.17(h)) has been submitted.

BACKGROUND

On 02 May 2001, applicants filed international application PCT/IB01/00739 which claimed a priority date of 03 May 2000 and which designated the United States. No Demand was filed with the International Preliminary Examination Authority. As a result, the deadline for payment of the basic national fee expired 20 months from the priority date, or at midnight on 03 January 2002.

On 06 June 2002, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); preliminary amendment; an information disclosure statement; and a petition to revive under 37 CFR 1.137(b). The petition was granted in a Decision dated 11 September 2002.

On 20 June 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.492(a) and (b).

On 13 February 2003, applicants filed a Petition under 37 CFR 1.47(a) and a three-month extension of time.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the non-signing joint inventor. Items (1), (3) and(4) have been satisfied.

With regards to Item (2), the application and papers have been reviewed and have been found to be in compliance with 37 CFR 1.47(a). The steps taken by Sophie Diatta are sufficient to establish that the missing inventor, Etienne Catte, could not be found or reached after diligent effort.

CONCLUSION

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

The application will be given an international filing date of 02 May 2001 under 35 U.S.C. 363, and a date of 13 February 2003 under 35 U.S.C. 371(c).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel.: 703-308-6314
Fax: 703-308-6459

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Etienne Catte
71 rue de Buzenval
F-92210 Saint Cloud

In re Application of
GUION et al.
U.S. Application No.: 10/149,132
PCT No.: PCT/IB01/00739
Int. Filing Date: 02 May 2001
Priority Date: 03 May 2000
Attorney Docket No.: 76.0631US
For: A COMPRISING ELECTRICAL CONTACTS

Dear Mr. Catte:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.497.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel.: 703-308-6314
Fax: 703-308-6459

Leonard W. Pojunas
Schlumbergersema Inc.
30000 Mill Creek Avenue, Suite 100
Alpharetta, GA 30022

28 AUG 2002
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#3

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WASHINGTON, D.C. 20231
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Schlumbergersema Inc.
Attn.: Patent Department
30000 Mill Creek Avenue, Suite 100
Alpharetta, GA 30022

In re Application of
JOSE MENNECART et al.
Serial No.: 10/149,133
PCT No.: PCT/IB01/00752
Int. Filing Date: 03 May 2001
Priority Date: 03 May 2000
Attorney's Docket No.: 76.0597 US
For: INTEGRATED CIRCUIT CARD AND CASE THEREFOR

: DECISION ON PETITION
: UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 06 June 2002 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the basic national fee of $890 has been paid. The required petition fee of $1,280 has also been paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing including issuance of a Notification of Missing Requirements indicating that an oath or declaration executed by the inventors and the $130 surcharge for filing the oath or declaration after the twenty month period is required.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467

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1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

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AUG 2 6 2003

OFFICE OF PETITIONS

In re Application of
John Fikes et al
Application No. 10/149,135
Filed: October 21, 2002
Attorney Docket No. 2060.0130001EKS/HCC

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

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 14, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/458,298, filed December 10, 1999 set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

The instant pending application was filed on October 21, 2002, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

---

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

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

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

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

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

Upon examination in due course, the Examiner of Technology Center AU 1644 will consider applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to prior-filed nonprovisional Application No. 09/458,298, filed December 10, 1999.

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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1100 NEW YORK AVE.
WASHINGTON DC 20005

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JUN 18 2010

OFFICE OF PETITIONS

In re Patent No. 7,572,882 :
Sette et al. :
Issue Date: August 11, 2009 :
Application No. 10/149,136 :
Filed: October 29, 2002 :
Attorney Docket No. :
2473.0100002/EKS/M-M :
Title: INDUCING CELLULAR IMMUNE :
RESPONSES TO HUMAN :
PAPILLOMAVIRUS USING PEPTIDE :
AND NUCLEIC ACID COMPOSITIONS :

: DECISION ON REQUEST FOR
: RECONSIDERATION OF
: PATENT TERM ADJUSTMENT
: AND NOTICE OF INTENT
: TO ISSUE CERTIFICATE OF
: CORRECTION

This is a decision on the petition filed on October 13, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand two hundred sixty-seven (1267) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED TO THE EXTENT INDICATED HEREIN.**

The period of adjustment to which the patent is entitled under 37 CFR 1.702(a) is 670 (211 + 50 + 113 + 296) days.

The period of adjustment to which the patent is entitled under 37 CFR 1.702(b) is 1523 days (June 11, 2005 to August 11, 2009 the day of issuance of the patent.

The time taken up by the notice of appeal is excluded from the period of B-delay pursuant to 37 CFR 1.703(b)(4) in connection with the first Notice of Appeal filed August 2, 2007. The reduction of 236 days commenced August 2, 2007; the date that

the Notice of Appeal was filed, and ended March 24, 2008, the day the Notice of Allowance was mailed. See, 37 CFR 1.703(b)(4).

There are 409 (113 + 296) days that overlap.

Patentees' delay total 326 days.

In view thereof, the patent is entitled to an overall adjustment of 1222 days.

The application is being forwarded to the Certificate of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand two hundred twenty-two **(1,222)** 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 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 Petitions Attorney, Charlema Grant at (571) 272-3215.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,572,882 B2

DATED : August 11, 2009 **DRAFT**

INVENTOR(S) : Sette 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 1022 days

Delete the phrase "by 1056 days" and insert – by 1,222 days--

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Paper No. 9

STERNE KESSLER GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE NW
WASHINGTON DC 20005

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MAR 19 2004

OFFICE OF PETITIONS

In re Application of :
Fikes, et al. :
Application No. 10/149,138 : DECISION ON PETITION
Filed: October 24, 2002 :
Attorney Docket No. :
2060.0140001/EKS/HCC

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 24, 2003, to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of priority to nonprovisional application 09/458,299.

The petition is **GRANTED**.

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

(1) the reference required by 35 U.S.C. §120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;

(2) the surcharge set forth in §1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant application was filed on October 24, 2002, and was pending at the time of filing of the instant petition. Reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application(s) under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application(s). In order for the instant application to be entitled to the benefit of the prior-filed application(s), all other requirements under 35 U.S.C. §120 and 37 CFR 1.78 must be met. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

As the petition fee at the time of filing the petition was $1,300, the $20 difference between the fee submitted and the fee due has been charged to Deposit Account No. 19-0036, as authorized.

This application is being forwarded to Technology Center 1600 for consideration of the Amendment filed July 24, 2003, including consideration by the Examiner of applicants' claim for the benefit of priority to the prior-filed nonprovisional application.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Cliff Congo at (703) 305-0272.

Charles Pearson
Director
Office of Petitions

Enc: Corrected Filing Receipt (2 pages)

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OFFICE OF PETITIONS

In re Application of	:	
Fikes et al.	:	
Application No. 10/149,140	:	DECISION GRANTING
Filed: 18 November, 2002	:	PETITION
Atty Docket No.	:	
2060.0120001/EKS/HCC	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on 5 August, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 365(c) for the benefit of prior-filed Application No. 09/458,297, filed on 10 December, 1999.

The petition is **GRANTED**.

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(I) of the prior-filed application(s), unless previously submitted;[1]

(2) the surcharge set forth in § 1.17(t); and

---

[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).

> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on 18 November, 2002, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

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

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

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

---

[2] *See* 35 U.S.C. § 120.

instant application is entitled to the benefit of the earlier filing date.

This application is being forwarded to Technology Center Art Unit 1644 for examination in due course and for processing and consideration by the Examiner of applicant's claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (2) for the benefit of priority to the prior-filed nonprovisional applications.

Telephone inquiries related to this decision should be directed to Senior Petitions Attorney Douglas I. Wood at 703-308-6918.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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MAY 27 2004

In re Application of	:	
Horst Hohnen et al.	:	
Serial No. 10/149,141	:	DECISION ON PETITION
Filed: August 27, 2002	:	TO MAKE SPECIAL
For: METHOD AND DEVICE FOR THE IN SITU DISPOSAL OF INCONTINENCE ARTICLES	:	

Applicant's petition, filed April 5, 2004, seeks to have this application made special pursuant to the Accelerated Examination Program. The petition is GRANTED.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(VIII) of the Manual of Patent Examining Procedures (MPEP).

Applicant is advised that the examiner's search will be restricted to the subject matter encompassed by the claims. In the event that the application receives a first action rejection, applicant is encouraged to arrange for an interview with the examiner, and to provide the examiner with a working copy of any proposed amendment one working day prior to the interview. Any amendment filed in response to a first action rejection which would require broadening of the field of search will be treated as an improper response.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Friedrich Kueffner
317 Madison Avenue, Suite 910
New York, NY 10017

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Paper No. 10

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OCT 17 2003

OFFICE OF PETITIONS

In re Application of :
Thomas Bogel :
Application No. 10/149,143 : NOTICE
Filed: September 24, 2002 :
Attorney Docket No. 21/1126US

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

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

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

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

This file is being forwarded to Technology Center 2800.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

RICHARD S. BULLITT
BAYER CORPORATION
BOX 1910
36 COLUMBIA ROAD
MORRISTOWN, NJ 07962-1910

COPY MAILED

APR 2 2 2004

OFFICE OF PETITIONS

In re Application of
Fladung et al.
Application No. 10/149,169
Filed: June 5, 2002
Attorney Docket No. LEA 34150

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 9, 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 2, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on January 3, 2004.

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $950.00 extension of time fee submitted with the petition on April 9, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

The file is now being forwarded to Technology Center 1600 for further examination on the merits.

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

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

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MORRISTOWN, NJ 07962-1910

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MAY 0 3 2005

OFFICE OF PETITIONS

In re Application of :
Bernward Fladung et al :
Application No. 10/149,169 : ON PETITION
Filed: June 5, 2002 :
Attorney Docket No. LEA 34150 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 13, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed July 14 ,2004, which set a shortened statutory period for reply of three (3) months. A one (1) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on November 15, 2004.

The above-identified application is being revived solely for purposes of continuity with a submission under 37 CFR 1.114 (request for continued examination (RCE)).

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 $1,020 extension of time submitted with the petition on April 13, 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 Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center 1616 for processing of the request for continued examination under 37 CFR 1.114 filed April 13, 2005.

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

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Commissioner for Patents
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P.O. Box 1450
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JAMES RAY & ASSOCIATES
2640 PITCAIN ROAD
MONROEVILLE, PA 15146

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JUN 20 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Stephane CHEVALLIER :
Application No. 10/149,178 :
Filed: June 7, 2002 :
Attorney Docket No. CBL.02219 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 19, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 3, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A three (3) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is January 4, 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 $1540; and (3) the required statement of unintentional delay have been received.

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. However, in accordance with 37 CFR 1.34(a), the signature of Thomas A. Fairhall appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. On the other hand, the Power of Attorney filed on February 19, 2008, cannot be accepted. 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 Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 3763 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Thurman Page
Petitions Examiner
Office of Petitions

cc: THOMAS A. FAIRHALL
MCDONNELL BOEHNEN HULBERT
BERGHOFF LLP
300 S. WACK ER DRIVE, 32ND FLOOR
CHICAGO, IL 60606

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MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

MAILED

MAR 0 4 2010

OFFICE OF PETITIONS

In re Patent No. 7, 429,256	: DECISION ON REQUEST
Chevallier, et al.	: FOR
Issue Date: September 30, 2008	: RECONSIDERATION OF
Application No. 10/149,178	: PATENT TERM ADJUSTMENT
Filed: June 7, 2002	: and
Atty Docket No. CBL 02219	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 13, 2008, 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 sixty-two (962) 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 sixty-two (962) days is **GRANTED**.

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **nine hundred sixty-two (962)** days.

Telephone inquiries specific to this matter should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,429,256 B2

DATED : Sep. 30, 2008

INVENTOR(S) : Chevallier, 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 (732) days

Delete the phrase "by 732 days" and insert – by 962 days--

18 MAY 2004

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M. S. Kolodesh
THE PROCTOR & GAMBLE COMPANY
Intellectual Property Division
Winton Hill Technical Center - Box 161
6110 Center Hill Avenue
Cincinnati, OH 45224

In re Application of :
Martin SCAIFE :
Application No.:10/149,214 :
PCT Application No.: PCT/US00/33251 : DECISION ON
International Filing Date: 08 December 2000 :
Priority Date: 10 December 1999 : PETITION
Attorney Docket No.: CM2252Q :
For: PROCESS FOR SPLICING THE : UNDER 37 CFR 1.137(b)
THE BOTTOM END PORTION OF
THE FIRST STACK OF WEB MATERIAL
AND THE TOP END PORTION OF THE
SECOND STACK OF THE MATERIAL

Applicants' "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)," (petition for revival) filed 01 October 2003 is **GRANTED**.

BACKGROUND

On 07 June 2002, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*,: the requisite basic national fee as required by 35 U.S.C. 371(c)(1). A copy of the international application as required by 35 U.S.C. 371(c)(2) was submitted by the International Bureau to the PTO. An oath as required by 35 U.S.C. 371(c)(4) was not filed.

On 09 September 2002, the PTO, the United States Designated/Elected Office (DO/EO) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by International application number and international filing date, and a surcharge for providing the oath or declaration later than 30 months from the priority date must be submitted within two months of the date of the Notification or by 32 months from the priority date, whichever is later. The period for response expired 09 November 2002, two months from the mail date of the Notification.

On 09 November 2002, the application became abandoned because applicants failed to respond to the Notification within the period for response.

On 01 October 2003, applicants filed the petition to revive accompanied by, *inter alia*, a compliant declaration, the $130 Surcharge fee for late filing of the declaration, and by the petition fee of $1300 set forth in 37 CFR 1.17(m).

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a proper reply, (2) 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, (3) the petition fee required by law, and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

Applicants' statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," satisfies the requirements of 37 CFR 1.137(b)(3). Applicants' submission of a compliant declaration and payment of the $130 late Surcharge constitutes a proper reply to the Notification. Applicants' authorization to charge their deposit account for any fees required in connection with submission of the petition satisfies the requirement for a petition fee. A terminal disclaimer is not required because the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is **GRANTED** as to the National Stage in the United States of America.

A petition fee of $1300 will be charged from applicants' Deposit Account No. 16-2480.

The application has an international filing date of 08 December 2000 under 35 U.S.C. 363 and a date of 01 October 2003 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4). The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing.

Leonard Smith
PCT Legal Examiner
PCT Legal Administration

Jim Foster
Detailee
PCT Legal Administration

Telephone: (703) 308-1315
Facsimile: (703) 308-6459

24 JUN 200

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Winstead Sechrist & Minick P.C.
2400 Bank One Center
910 Travis Street
Houston, TX 77002

In re Application of	:	
Barrera et al.	:	
Application No.: 10/149,216	:	
PCT No.: PCT/US00/33291	:	
Int. Filing Date: 07 December 2000	:	DECISION
Priority Date: 07 December 1999	:	
Attorney Docket No.: 11321-P005WOUS	:	
For: Oriented Nanofibers Embedded In Polymer Matrix	:	

This is in response to the petition under 37 CFR 1.182 filed on 15 November 2002.

BACKGROUND

This international application was filed on 07 December 2000 and claimed a priority date of 07 December 1999. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. Consequently, the thirty month period for payment of the basic national fee in the United States expired as of midnight on 07 June 2002.

On 06 January 2002, applicants filed *inter alia* the basic national fee.

On 30 August 2002, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and noting a discrepancy between the name of an inventor listed in the declaration (Rodriguez-Macias) and the name of an inventor listed in the published international application (Rodriguez).

Applicants filed the instant petition on 15 November 2002.

DISCUSSION

Petitioner urges that the declaration be accepted because the discrepancy between the name listed in the published international application (Rodriguez) and the name listed on the declaration (Rodriguez-Macias) resulted from a mere typographic error. However, the addition of an additional nominative element to the inventor's name is deemed to constitute more than a mere typographical error. In order for the declaration to be accepted, verified statements by the inventor and any other individuals having first-hand knowledge of the error are required. These statements must set forth in detail the specific circumstances as to how and when the error was made and discovered, and must also state (if appropriate) that the mistake was an inadvertent error made without deceptive intent. In the absence of such a

showing, it would not be appropriate to grant the requested relief at this time.

CONCLUSION

The petition is DISMISSED, without prejudice.

A proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). A proper response should include a cover letter entitled "Renewed Petition Under 37 CFR 1.182" and be accompanied by an acceptable explanation of the facts as discussed above. Failure to timely file a proper response will result in ABANDONMENT of the application.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, DC 20231, and address the contents of the letter to the attention of the PCT Legal Office.

Applicant is advised that, effective May 1, 2003, the Office is changing its correspondence address. Any further correspondence with respect to this matter deposited with the United States Postal Service on or after May 1, 2003 should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Richard Cole
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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30 SEP 2003

Winstead Sechrist & Minick P.C.
2400 Bank One Center
910 Travis Street
Houston, TX 77002

In re Application of	:	
Barrera et al.	:	
Application No.: 10/149,216	:	
PCT No.: PCT/US00/33291	:	
Int. Filing Date: 07 December 2000	:	DECISION
Priority Date: 07 December 1999	:	
Attorney Docket No.: 11321-P005WOUS	:	
For: Oriented Nanofibers Embedded	:	
In Polymer Matrix	:	

This is in response to the "Renewed Petition Under 37 C.F.R. § 1.136 (a) In Response To Decision Dated June 23, 2003" filed on 25 August 2003, which has been treated as a renewed petition under 37 CFR 1.182.

DISCUSSION

Petitioner urges that the declaration be accepted because the discrepancy between the name listed in the published international application (Rodriguez) and the name listed on the declaration (Rodriguez-Macias) resulted from the use of two different usages of the Spanish language surname of inventor Rodriguez-Macias. The petition is accompanied by a signed statement by Mr. Rodriguez-Macias attesting that both the names ("Rodriguez" and "Rodriguez-Macias") refer to himself, and that the discrepancy in usage arose without deceptive intent. Under the circumstances of this application, and in view of the evidence of record, it would be appropriate to grant the requested relief.

CONCLUSION

The petition is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch for further processing, including correction of Office records to reflect the status and name of Fernando J. Rodriguez-Macias as a joint inventor. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **15 November 2002**.

Richard Cole
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459

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MCLEAN VA 22102

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JUN 28 2007

OFFICE OF PETITIONS

In re Application of :

LOEBIG, Norbet :
Application No. 10/149,228 : DECISION ON PETITION
Filed: September 30, 2002 : TO WITHDRAW
Attorney Docket No. **449122035900** : 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 18, 2007.

The request is **APPROVED**.

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

The request was signed by Deborah S. Gladstein on behalf of all attorneys of record who are associated. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **NORBET LOEBIG**
IM ERLICH 79
DARMSTADT, GERMANY 64291

cc: **KEVIN SPIVAK, BELL BOYD & LLOYD LLC**
70 WEST MADISON STREET
SUITE 3100
CHICAGO, IL 60602

25 JUL 2007

UNITED STATES PATENT and TRADEMARK OFFICE

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James C. Lydon
100 Daingerfield Road
Suite 100
Alexandria, Virginia 22314

In re Application of	:	DECISION ON
Sebastian MORAND	:	
PCT No.: PCT/FR01/03135	:	
Application No.: 10/149,251	:	PETITION UNDER
Int. Filing Date: 11 October 2001	:	
Priority Date: 11 October 2000	:	
Attorney's Docket No.: BONN-079	:	37 CFR 1.47(b)
For: CUTTOFF TRANSMISSION AND/OR RECEPTION ANTENNA	:	

This decision is in response to applicant's "PETITION PURSUANT TO 37 CFR 1.47(b)" submitted on 13 January 2003 that seeks the acceptance of the application without the signature of the inventor Sebastien MORAND. Petitioner has submitted the requisite $130 petition fee.

BACKGROUND

On 11 October 2001, applicant filed international application PCT/FR01/03135, which claimed priority of an earlier application filed 11 October 2000. A copy of the international application was transmitted to the United States from the International Bureau on 18 April 2002. No Demand was filed for this application. The thirty-month period for paying the basic national fee in the United States expired at midnight on 11 April 2003.

On 10 June 2002, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1). However, no executed declaration or oath was submitted at such time.

On 19 August 2002, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 indicating, *inter alia*, that "the oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. The notification also indicated that the surcharge for filing the oath or declaration later than 20 months from the priority date as required by 37 CFR 1.492(e) must be filed. The notification set two months from the date of this notice or 32 months from the priority date for the application, whichever is later. Failure to properly respond will result in abandonment."

In an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4), applicant filed on 13 January 2003, the following:

1) a petition under 37 CFR 1.47(b);

2) a Declaration for U.S. Patent Application executed by Philippe BERTHAULT;

3) Declaration by Mr. Gerald BONNEAU;

4) the required petition fee.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Applicant has satisfied items (1), (3), and (6) but not items (2), (4) and (5) thus not completing the requirements under 37 CFR 1.47(b).

Applicant has satisfied item (1) since the petition fee has been provided by applicant.

Regarding requirement (2), although petitioner has concluded that Sebastien MORAND has refused to sign the declaration the petition does not include sufficient proof to establish that inventor Mr. MORAND has refused to execute the application. The standards for proof are set forth in MPEP § 409.03(d), which provides:

> The affidavit or declaration of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted....
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the non - signing inventor, or, if the non - signing inventor is represented by counsel, to the address of the non - signing inventor's attorney.

> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.

Mr. Bonneau states that Mr. Morand refused to signed the declaration, however in the present instance, it is not clear whether a complete set of application papers were presented to Mr. Morand to sign. It is noted that no documentary evidence has been introduced into the file that shows that Mr. Morand was presented with a complete application. Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature. It would appear, from Mr. Morand's statement and the evidence provided that Mr. Morand was only given the declaration and the assignment to sign and not a complete copy of the application.

Consequently, the petition does not include sufficient factual proof that Mr. Morand refuses to sign the required papers.

Regarding item (3), applicant has stated the last known address of the inventor:

Mr. Sebastien MORAND
7 PLACE Jules Lisnard 06220
Vallauris, France

Regarding item (4) a declaration has been provided which is executed by Mr. Philippe Berthault, Officer of ASK S.A. signing on behalf of the corporation for the non-signing sole inventor, Mr. Morand. The declaration, however, only sets forth Mr. Berthault as officer and it is unclear if he is an appropriate corporate officer to sign on behalf of the corporation. Note MPEP 1820. In addition, the declaration is defective because it does not state the relationship of the person signing to the inventor, as required by 37 CFR 1.497(b)(2).

Regarding item (5) applicant has not submitted proof that applicant has sufficient proprietary interest in the application. A copy of the employment contract of Morand for an unlimited period of time has been provided with the application; however, no corroborating statement has been providing by a person having first hand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant. Note MPEP 409.03(f).

Regarding item (6) applicant has presented an adequate showing that the granting of this petition is necessary to preserve the rights of the parties or to prevent irreparable damage if the response to the missing parts of the application is not timely.

Accordingly, since items (2) and (4) under 37 CFR 1.47(b) have not been met it is not appropriate to accord the national stage application status at this time.

With respect to the request to correct the name of the inventor, it is noted that the correct name, Sebastien MORAND, appears both in the international application and in the declaration.

This is the name that will be reflected in the records of the USPTO, and not the incorrect name appearing in the transmittal letter.

CONCLUSION

The petition under 37 CFR 1.47(b) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6312
Fax: (703) 308-6459

Richard Cole
PCT Legal Examiner
PCT Legal Office

23 JAN 2004

UNITED STATES PATENT and TRADEMARK OFFICE

#7

29 JAN 2004

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ALEXANDRIA, VA 22313-1450
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James C. Lydon
100 Daingerfield Road
Suite 100
Alexandria, Virginia 22314

In re Application of	:	DECISION ON
Sebastian MORAND	:	
PCT No.: PCT/FR01/03135	:	
Application No.: 10/149,251	:	PETITION UNDER
Int. Filing Date: 11 October 2001	:	
Priority Date: 11 October 2000	:	
Attorney's Docket No.: BONN-079	:	37 CFR 1.47(b) and 1.181
For: CUTTOFF TRANSMISSION AND/OR RECEPTION ANTENNA	:	

This is in response to the "RENEWED PETITION PURSUANT 37 C.F.R. §1.47(b)" filed on 25 September 2003.

BACKGROUND

In a decision from this Office on 25 July 2003, the initial petition under 37 CFR 1.47(b) was dismissed. The decision indicated that requirements (2), (4) and (5) under 37 CFR 1.47(b) were not met therefore not completing all the requirements under it.

On 25 September 2003, applicant submitted a "Renewed Petition Pursuant 37 CFR 1.47(b)" requesting the USPTO to permit ASK to apply for this application in place of Mr. Morand, and that it satisfies the deficiencies noted in the July 25th decision. The renewed petition includes a second declaration by Gerard Bonneau, a re-executed declaration and a showing of proprietary interest by ASK because of Mr. Moran's employment by them.

On 13 January 2004, petitioner resubmitted the petition including a hand-carry postcard with a USPTO stamped date of 25 September 2003. Petitioner indicates these papers are true copies of the renewed petition submitted on September 25, 2003.

DISCUSSION

37 CFR 1.181:

Petitioner's present petition is accompanied by a copy of the following documents, filed purportedly with the PTO as indicated in the hand-carry stamped postcard:

(1) Renewed Petition (Exhibits I-VI)

(2) Declaration

The postcard lists the above items and bears a USPTO date of stamp as 25 September 2003.

MPEP 503 provides:

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

Applicant's postcard is accepted as *prima facie* that the renewed petition and Declaration were deposited with the U.S. Patent and Trademark Office on 25 September 2003.

DECISION

The renewed petition under 37 CFR 1.181 is **GRANTED**.

37 CFR 1.47(b):

Petitioner has now satisfied requirement (2), (4) and (5) of 37 CFR 1.47(b), thus completing the requirements under 37 CFR 1.47(b).

Regarding requirement (2), petitioner has provided a second declaration by Mr. Bonneau indicating that a complete copy of the application, including the specification, claims, drawings and an inventor's declaration were forwarded to Mr. Morand, and that he has refused to execute the papers mailed to him.

Regarding item (4) a declaration has been provided which is executed by Mr. Philippe Berthault, Officer of ASK S.A. signing on behalf of the corporation for the non-signing sole inventor, Mr. Morand. It sets forth Mr. Berthault relationship to the non-signing inventor and that he is an appropriate corporate officer to sign on behalf of the corporation.

Regarding item (5) applicant has submitted proof that applicant has sufficient proprietary interest in the application because a copy of the employment contract of Morand for an unlimited period of time and a declaration from Mr. Monteil indicating that Mr. Morand made the invention disclosed and claimed in this application while he was employed by ASK.

Accordingly, it is appropriate to accord the national stage application status under 37 CFR 1.47(b) at this time.

CONCLUSION

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

The renewed petition under 37 CFR 1.181 is **GRANTED**.

As provided in 37 CFR 1.47(b), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(b) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including the accordation of 35 U.S.C. 371(c) dates of **25 September 2003**.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6312
Fax: (703) 308-6459

Leonard Smith
PCT Legal Examiner
PCT Legal Office

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

YOUNG & THOMPSON
745 SOUTH 23RD STREET
2ND FLOOR
ARLINGTON VA 22202

In re Patent No. 6,955,795 :
Issue Date: October 18, 2005 :
Application No. 10/149,266 : DECISION ON PETITION
Filed: September 25,2002 :
Attorney Docket No. FUK-92 :

This is a decision on the petition under 37 CFR 1.182, filed July 21, 2006, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

The Office of Patent Publication is directed to issue a duplicate Letters Patent.

The $400 fee for the petition under 37 CFR 1.182 has been submitted.

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

Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Krystal Paige in the Office of Patent Publication at (703) 308-9250, Ext. 139.

A copy of this decision is being faxed to the Office of Patent Publication for issuance of a duplicate Letters Patent.

Charlema R. Grant
Petition Attorney
Office of Petitions

cc: Krystal Paige, South Tower, 8th Floor, Room C32 (Fax No. (571) 270-9937)

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

Sanders Hillis
Brinks Hofer Gilson & Lione
PO Box 10395
Chicago, Illinois 60610

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OFFICE OF PETITIONS

In re Application of
Natsuno et al.
Application No.: 10/149,278
Filed June 5, 2002
Atty. Docket No.9683/122

: DECISION DISMISSING PTA REQUEST

This decision is in response to applicants' REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT filed on June 4, 2007 requesting that the Office adjust the PTA at the time of the mailing of the notice of allowance FROM A DETERMINATION OF 811 DAYS TO A DETERMINATION OF 793 DAYS..

Applicants' request for review of Patent Term Adjustment is DISMISSED. The amount of PTA at the time of the mailing of the notice of allowance is correct.

Applicants request review of the patent term adjustment to determine if the IDS submission of August 8, 2008 is a reduction pursuant to 37 CFR 1.704(c)(8). Applicants assert that the reduction in patent term should have totaled 135 days rather than the 117 days. Accordingly, the applicants assert that the reduction in PTA would total an additional 17 days.[1]

Applicants arguments are not persuasive. The Office notes that the submission of IDS on 8/8/2006 is after the Office's mailing of an Office action on June 5, 2006 but prior to the Office response on December 5, 2006. In this scenario, the IDS is not considered a reduction against earned patent term under 37 CFR 1.704(c)(8) because such submission is not submitted supplemental to the applicants' reply. If on the other hand the reply was filed on August 8, 2006 and the IDS submission would have been filed on December 5, 2006, then such IDS submission would have been a failure to engage in reasonable efforts to conclude prosecution of the application under 37 CFR 1.704(c)(8). Applicant may file an IDS submission prior to or with the applicants reply and not be considered a failure to engage in reasonable efforts to conclude prosecution of the application under 37 CFR 1.704(c)(8). IDS submissions after the applicant reply will be considered a failure to engage in reasonable efforts to conclude prosecution of the application unless applicants can maker certification under 37 CFR 1.704(d).

After the mailing of this decision, this application will be forwarded to the Office of patent publications for a prompt issuance of the patent. The Office notes that any delays under 37 CFR 1.702(a)(4) or 1.702(b) will be determined at the time of the issuance of the patent and will be

[1]Applicants may have erred in stating that 17 days of additional reduction should have been assessed. Note that if applicants' arguments would have been true, the reduction would have been for a period (135-117=18) 18 days rather than 17 days alleged by applicants.

provided to applicants in the issue notification letter that is mailed to applicant approximately three weeks prior to issuance of the patent.

Applicants are reminded that if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions*; *Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004).

The applicants have submitted the request out of good faith and candor. No fees will be assessed in the submission of this letter..

Any questions should be directed to Kery A. Fries, Senior Legal Advisor, at 571-272-7757.

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

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OFFICE OF PETITIONS

Nath & Associates PLLC
112 South West Street
Alexandria, Va 22314

In re Application of
Martin
Application No. 10/149,288
Patent No. 7,015,325
Filed: September 20, 2002
Attorney Docket: 24,991

: DECISION DISMISSING PETITION

This decision is in response to Applicants' "APPLICATION FOR PATENT TERM ADJUSTMENT" timely[1] filed on March 29, 2006 requesting that the Patent Term Adjustment be adjusted from a determination of 511 days to a determination of six hundred and ninety-three 693 days.

Patentees' petition is **DISMISSED**.

Patentees argue that the Office erred in failing to provide an adjustment for over 3 years to issue from the from the filing of the application under 37 CFR 1.704(c)(10). Patentees assert that the proper amount of PTA related to the 3-year provision is one hundred and eighty-two (182) days. Patentees assert that the one hundred and eighty-two days should be added to the 511 days provided to applicants. Patentees do not contest the 476 days awarded pursuant to 37 CFR 1.702(a)(1) or the 35 days awarded to patentees pursuant to 37 CFR 1.702(a)(4).

Patentees arguments are not persuasive. Patentees are advised that if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions*; *Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004). Since the Office delays under 37 CFR 1.702(a)(1) and (a)(4) are greater than the delay for 37 CFR 1.702(b), applicants will receive no additional PTA time.

[1]Patent issued on March 21, 2006.

Application No. 10/149,288

After review of this decision, this application will be forwarded to the file repository for storage of such patented file.

The Office acknowledges the receipt of $200.00 for the application for patent term adjustment (petition). No additional fees are required by the Office.

Any questions concerning the issuance of this patent should be directed to Kery A. Fries, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy at 571-272-7757

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

cc: PAIR calculation

Day : Thursday

PALM INTRANET

Date: 9/7/2006
Time: 10:29:42

PTA Calculations for Application: 10/149288			
Application Filing Date:	09/20/2002	PTO Delay (PTO):	511
Issue Date of Patent:	03/21/2006	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	511
PTO Delay Adjustment:	0		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
44.5	03/01/2006	PTA 36 MONTHS			
44	03/21/2006	PATENT ISSUE DATE USED IN PTA CALCULATION	35		39
43	02/07/2006	EXPORT TO FINAL DATA CAPTURE			
42	01/24/2006	DISPATCH TO FDC			
41	01/19/2006	FINISHED INITIAL DATA CAPTURE			
40	12/03/2005	APPLICATION IS CONSIDERED READY FOR ISSUE			
39	10/14/2005	ISSUE FEE PAYMENT VERIFIED			
38	12/02/2005	CORRESPONDENCE ADDRESS CHANGE			
37	10/14/2005	ISSUE FEE PAYMENT RECEIVED			
36	08/15/2005	EXPORT TO INITIAL DATA CAPTURE			
35	08/10/2005	MAIL NOTICE OF ALLOWANCE			
34	08/08/2005	ISSUE REVISION COMPLETED			
33	08/09/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
32	08/09/2005	CASE DOCKETED TO EXAMINER IN GAU			
31	08/03/2005	NOTICE OF ALLOWABILITY			
30	06/21/2005	DATE FORWARDED TO EXAMINER			
29	06/09/2005	RESPONSE AFTER NON-FINAL ACTION			
28	03/10/2005	MAIL NON-FINAL REJECTION	476		-1
27	03/04/2005	NON-FINAL REJECTION			
26	02/07/2005	CASE DOCKETED TO EXAMINER IN GAU			
25	01/27/2005	CASE DOCKETED TO EXAMINER IN GAU			
24	12/11/2003	PRELIMINARY AMENDMENT			
23	11/05/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			

22	09/20/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	09/16/2003	APPLICATION RETURN FROM OIPE			
20	09/16/2003	APPLICATION RETURN TO OIPE			
19	09/16/2003	APPLICATION RETURN FROM OIPE			
18	09/16/2003	NOTICE OF DO/EO ACCEPTANCE MAILED			
17	09/16/2003	APPLICATION RETURN TO OIPE			
16	07/02/2003	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
15	07/01/2003	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
14	01/21/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	04/02/2003	MISCELLANEOUS INCOMING LETTER			
12	03/28/2003	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
11	03/26/2003	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
9	03/25/2003	CASE DOCKETED TO EXAMINER IN GAU			
8	12/09/2002	APPLICATION DISPATCHED FROM OIPE			
7	12/04/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
6	11/29/2002	NOTICE OF DO/EO ACCEPTANCE MAILED			
5	09/20/2002	INFORMATION DISCLOSURE STATEMENTS			
4	09/20/2002	ADDITIONAL APPLICATION FILING FEES			
3	09/20/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Washington, DC 20006

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re Application of
Charles Thomas Layton, et al.
Application No. 10/149,291
Filed: June 11, 2002
For: SPRING FOR RETRACTING AND RETAINING A PAD IN A CALIPER TYPE DISC BRAKE ASSEMBLY

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicant's request to withdraw the holding of abandonment filed in the United States Patent and Trademark Office on December 4, 2003.

The petition is **DENIED**.

A review of the file record indicates that an Office Action was mailed to applicant on May 7, 2003 wherein a three-month shortened statutory period for response was set. Since no timely response to the May 7, 2003 Office Action was received and the six-month statutory time period for reply has expired, the application was abandoned and a notice to that effect was mailed on November 19, 2003

Petitioner states that a response was filed on November 7, 2003 by facsimile. The copy of the response submitted with the petition includes a Certificate of Transmission dated November 7, 2003.

MPEP 512 states:

> "(C) When the certification is presented on a separate sheet, that sheet must (1) be signed and (2) fully identify and be securely attached to the paper it accompanies. The required identification should include the application number and filing date of the application as well as the type of paper being filed, e.g., reply to rejection or refusal, Notice of Appeal, etc...
>
> Moreover, without the proper identifying data, a certification presented on a separate sheet will not be considered acceptable if there is any question or doubt concerning the connection between the sheet and the paper filed."

The Certificate of Transmission is contained on a separate sheet and fails to fully identify the paper to which it accompanied. Therefore, the certification is not acceptable since there is no connection between the certification and the paper filed.

Since applicant's petition to withdraw the Holding of Abandonment will not be granted applicant may wish to consider filing a petition to revive under 37 CFR 1.137(a) (unavoidable delay) or 37 CFR 1.137(b) (unintentional delay) as discussed below.

I. Unavoidable Delay.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: **(1)** the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; **(2)** the petition fee required by 37 CFR 1.17(l); and **(3)** an adequate showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable.

The showing requirement can be met by submission of statements of fact establishing that the delay in filing the reply was unavoidable. This includes a satisfactory showing that the cause of the delay resulting in failure to reply in a timely fashion to the Office action was unavoidable. Diligence during the time period between abandonment and filing of the petition to revive must also be shown.

As an alternative to filing a petition for unavoidable abandonment, a petition for revival of an application abandoned unintentionally under 37 CFR 1.137(b) might be appropriate.

II. Unintentional Delay.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (**1**) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; (**2**) the petition fee required by 37 CFR 1.17(m); and (**3**) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

The petition fee required by law for filing a petition under unavoidable standard is $110. The fee for a petition under the unintentional standard is $1,330. If applicant has, or can qualify as a "small entity" and does so prior to or together with the payment of the fee, the fee will be one-half of the amount indicated.

If not previously filed, the reply to the outstanding Office action must accompany the petition to revive.

The required items should be promptly submitted under a cover letter entitled "Petition to Revive".

Further correspondence with respect to a petition to revive should be addressed as follows:

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

By Hand: Crystal Plaza 4, Suite 3C23
2201 South Clark Place
Arlington, VA 22202

Telephone inquiries regarding petitions to revive should be directed to the Office of Petitions Staff at (703) 305-9282.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

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

SNM/cps: 1/14/04

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Paper No. 10

Conrad J Clark
Clark & Brody
Suite 600
1750 K Street NW
Washington, DC 20006

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OFFICE OF PETITIONS

In re Application of :
Layton et al. :
Application No. 10/149,291 : ON PETITION
Filed: June 11, 2002 :
Attorney Docket No. 11017-0013US :

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

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 7, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 8, 2003. A Notice of Abandonment was mailed on November 19, 2003.

Petitioner alleges that a reply and authorization to charge a three month extension of time ($950) to petitioner's deposit account were filed on November 7, 2003. However, a petition to withdraw the holding of abandonment was previously dismissed because the Director found the evidence insufficient to prove the reply and fee had been timely filed.

Rather than filing a request for reconsideration, petitioner now seeks to prove the timely filing of the reply by filing a petition under 37 CFR 1.137(a).

A grantable petition under 37 CFR 1.137(a) must be accompanied by a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable. The showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 37 CFR 1.137(a).

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[1] The general question asked by the Office is: "Did petitioner act as a reasonable and prudent

[1] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

person in relation to his most important business?"[2] A lack of knowledge of, or failure to understand, a PTO rule, the content of the MPEP, or an Official Gazette notice will not constitute unavoidable delay.[3]

Petitioner's failure to file the reply at issue in compliance with 37 CFR 1.8 or 1.10 precludes a finding that the delay was unavoidable. A "reasonably prudent person" would file papers or fees in compliance with 37 CFR 1.8 or 1.10 to ensure their timely filing in the PTO, as well as preserve adequate evidence of such filing, a delay caused by an applicant's failure to file papers or fees in compliance with 37 CFR 1.8 and 1.10 does not constitute "unavoidable" delay.[4]

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply (already submitted), the required petition fee ($1,330 for a large entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. A copy of a blank petition form is enclosed for petitioner's convenience.

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
Attn: Office of Petitions

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

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[2] See In re Mattullath, 38 App. D.C. 497 (D.C. Cir. 1912).

[3] See Vincent v. Mossinghoff, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D. D.C. 1985) (Plaintiffs, through their counsel's actions, or their own, must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.)

[4] "The procedures set out in the PTO's regulations are designed to provide the type of direct evidence needed to prove when and to where a lost amendment [or other paper] was sent. Had plaintiff's counsel followed these procedures, as a 'prudent and careful man' would have done in conducting 'his most important business,' then he would have been able to provide sufficient evidence to support a showing of unavoidable delay." Krahn v. Commissioner of Patents and Trademarks, 15 U.S.P.Q.2d (BNA) 1823 (E.D. Va. 1990).

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

Attached: PTO/SB/64

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OFFICE OF PETITIONS

In re Application of :
Layton et al. :
Application No. 10/149,291 :
Filed: June 11, 2002 :
Attorney Docket No. 11017-0013US :

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(a), filed August 3, 2004, to revive the above-identified application. The petition is also being treated under 37 CFR 1.181 (no fee) as a renewed petition to withdraw the holding of abandonment. The petition has been filed in the alternative under 37 CFR 1.137(b).

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

The petition under 37 CFR 1.137(a) is **granted**.

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

Facts:

A non-final Office action was mailed May 7, 2003.

Neither a reply nor a request for an extension of time were received. Accordingly, the application became abandoned as of August 8, 2003.

A Notice of Abandonment was mailed on November 19, 2003.

A petition to withdraw the holding of abandonment was filed on December 4, 2003.

The petition was accompanied by a copy of the transmittal sheet which states, "I hereby certify that this communication is be[ing] transmitted by facsimile to the USPTO at the noted number this 7th day of November 2003." The facsimile number listed is 703-308-3519.[1] The Certificate of Transmission is signed by an attorney of record.

A copy of the facsimile report indicates the facsimile was completed at 7:15pm on November 7, 2003. The report indicates that three pages were transmitted.

The copy of the response submitted on December 4, 2003, is two pages long.

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[1] The May 7, 2003 Office action stated, "The fax numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and *(703) 308-3519* for After Final communications." (Emphasis added)

Steven Meyers, a Special Programs Examiner for Technology Center 3600, dismissed the petition to withdraw the holding of abandonment. The dismissal was mailed on February 18, 2004.

The dismissal is based on language form the MPEP which is quoted below.

MPEP 512 states,

> (B) When possible, the certification should appear on a portion of the paper being submitted. However, if there is insufficient space to make the certification on the same paper, the certification should be on a separate sheet securely attached to the paper.
> (C) When the certification is presented on a separate sheet, that sheet must
> (1) be signed and
> (2) fully identify and be securely attached to the paper it accompanies. The required identification should include the application number and filing date of the application as well as the type of paper being filed, e.g., reply to rejection or refusal, Notice of Appeal, etc. . . . Moreover, without the proper identifying data, a certification presented on a separate sheet will not be considered acceptable if there is any question or doubt concerning the connection between the sheet and the paper filed.

The Certificate of Transmission was on a separate sheet from the papers which accompanied the Certificate. The sheet does not identify the papers which are attached. The sheet does not list the application or filing date of the application. The sheet provides no indication that the sheet is associated with the instant application or with an amendment to the application.

A petition under 37 CFR 1.137(a) was filed on April 19, 2004.

Declarations and other evidence were filed to establish the following facts:
(1) the law firm's computerized docket book shows that a response was filed on November 7, 2003, for the instant application,
(2) the law firm's back-up manual docket system shows that a response was filed by facsimile transmission on November 7, 2003, and
(3) the law firm maintains a daily PTO log which indicates the only paper filed with the PTO on November 7, 2003, was the amendment filed for the instant application.

The petition was dismissed. Petitioner's failure to file the reply at issue in compliance with 37 CFR 1.8 or 1.10 was deemed to preclude a finding that the delay was unavoidable. The decision stated,

> A "reasonably prudent person" would file papers or fees in compliance with 37 CFR 1.8 or 1.10 to ensure their timely filing in the PTO, as well as preserve adequate evidence of such filing, a delay caused by an applicant's failure to file papers or fees in compliance with 37 CFR 1.8 and 1.10 does not constitute "unavoidable" delay.[2]

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[2] "The procedures set out in the PTO's regulations are designed to provide the type of direct evidence needed to prove when and to where a lost amendment [or other paper] was sent. Had plaintiff's counsel followed these procedures, as a 'prudent and careful man' would have done in conducting 'his most important business,' then he would have been able to provide sufficient evidence to support a showing of unavoidable delay." Krahn v. Commissioner of Patents and Trademarks, 15 U.S.P.Q.2d (BNA) 1823 (E.D. Va. 1990).

Analysis:

Petitioner has not actually proven that the amendment was filed on November 7, 2003. Therefore, the holding of abandonment will not be withdrawn. Petitioner may wish to note that, if the holding of abandonment were withdrawn, the fee for a three month extension of time would need to be charged to petitioner's deposit account. The fee for an extension of time is *not* necessary however since relief is being granted under 37 CFR 1.137(a) rather than 37 CFR 1.181.

"[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."[3] Further consideration has been given to all the facts and circumstances including the declarations, docket reports, and steps in place at the law firm to ensure an amendment would be timely filed. Further consideration indicates that relief under 37 CFR 1.137(a) is warranted.

Since relief under 37 CFR 1.137(a) is granted, the petition under 37 CFR 1.137(b) is dismissed as moot and a fee has not been charged for the petition under 37 CFR 1.137(b).

The file is now being forwarded to Technology Center Art Unit 3683 for entry of the amendment and for further prosecution in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

[3] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

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AUG 14 2006

OFFICE OF PETITIONS

In re Application of :
Nicolas Constantinidis et al. :
Application No. 10/149,299 : ON PETITION
Filed: June 10, 2002 :
Attorney Docket No.: FR000108 :

This is a decision on the petition filed July 25, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed December 16, 2005. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned March 17, 2006. Accordingly, a Notice of Abandonment was mailed June 29, 2006.

Pursuant to the authorization found in the petition, the petition fee in the amount of $1500.00 has been charged to deposit account no.14-1270.

This matter is being referred to Technology Center 2618 for appropriate action on the amendment filed July 25, 2006.

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

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

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

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

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

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

30 JAN 2003

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WASHINGTON, D.C. 20231
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Robin M. Silva
Dorsey & Whitney LLP
Suite 3400
Four Embarcadero Center
San Francisco, CA 94111-4187

In re Application of BRISCOE et al
U.S. Application No.: 10/149,318
Int. Application No.: PCT/US00/33499
Int. Filing Date: 11 December 2000
Priority Date: 09 December 1999
Attorney Docket No.: A-70141/RMS/SRN
For: MULTILAYERED MICROFLUIDIC DEVICES FOR ANALYTE REACTIONS

COMMUNICATION

This is in response to the papers filed 14 November 2002.

BACKGROUND

On 11 December 2000, applicant filed international application PCT/US00/33499, which claimed priority of an earlier United States application filed 09 December 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 21 June 2001, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 10 June 2002 (09 June 2002 was a Sunday).

On 07 June 2002, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 10 September 2002, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 14 November 2002, applicant filed an executed declaration.

DISCUSSION

The fourth inventor's name in international application PCT/US00/33499 is listed as "Barbara Foley", whereas the first inventor's name on the declaration is listed as "Barbara Foley Barenburg".

MPEP 605.04(c) states in relevant part,

> In cases where an inventor's name has been changed after the application has been filed and the inventor desires to change his or her name on the application, he or she must submit a petition under 37 CFR 1.182. . . . The petition must include an appropriate petition fee and an affidavit signed with both names and setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

Applicant has not filed a petition under 37 CFR 1.182 along with the required fee and an affidavit signed with both names and setting forth the procedure whereby the change of name was effected.

CONCLUSION

A proper response must be filed within TWO (2) MONTHS from the mail date of this decision. A proper response would include a petition under 37 CFR 1.182 along with the required fee and a properly executed affidavit. Extensions of time are available under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to the Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the PCT Legal Office.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

10 APR 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Robin M. Silva
Dorsey & Whitney LLP
Suite 3400
Four Embarcadero Center
San Francisco, CA 94111-4187

In re Application of BRISCOE et al :
U.S. Application No.: 10/149,318 :
Int. Application No.: PCT/US00/33499 : DECISION
Int. Filing Date: 11 December 2000 :
Priority Date: 09 December 1999 :
Attorney Docket No.: A-70141/RMS/SRN :
For: MULTILAYERED MICROFLUIDIC DEVICES :
FOR ANALYTE REACTIONS :

This is in response to applicant's "Petition Under 37 CFR 1.182" filed 21 February 2003.

BACKGROUND

On 11 December 2000, applicant filed international application PCT/US00/33499, which claimed priority of an earlier United States application filed 09 December 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 21 June 2001, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 10 June 2002 (09 June 2002 was a Sunday).

On 07 June 2002, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, inter alia, the basic national fee required by 35 U.S.C. 371(c)(1).

On 10 September 2002, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 14 November 2002, applicant filed an executed declaration.

On 30 January 2003, this Office mailed a communication which indicated that a petition under 37 CFR 1.182 should be filed.

On 21 February 2003, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

The fourth inventor's name in international application PCT/US00/33499 is listed as "Barbara Foley", whereas the first inventor's name on the declaration is listed as "Barbara Foley Barenburg".

MPEP 605.04(c) states in relevant part,

> In cases where an inventor's name has been changed after the application has been filed and the inventor desires to change his or her name on the application, he or she must submit a petition under 37 CFR 1.182. . . . The petition must include an appropriate petition fee and an affidavit signed with both names and setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

Applicant has filed a petition under 37 CFR 1.182 along with the required fee and an affidavit signed with both names and setting forth the procedure whereby the change of name was effected.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 11 December 2000 and a date under 35 U.S.C. 371(c) of 14 November 2002.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

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APR 29 2005

Abelman Frayne & Schwab
150 East 42nd Street
New York NY 10017-5612

In re Application of:
Avner Yayon
Serial No.: 10/149,326
Filed: June 5, 2002
Attorney Docket No.: 205,637

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicant's petition under 37 CFR § 1.181(a) filed on April 11, 2005, requesting withdrawal of the holding of abandonment based on the timely filing of a response to the Office action mailed July 28, 2004.

A review of the file history shows that the examiner mailed an Office action to applicant on July 28, 2004, setting a three-month statutory time period for reply. On April 5, 2005, the examiner mailed a notice of abandonment for failure to respond to the outstanding Office action.

Applicant states that through a typographical error, the last digit of the response was incorrect, thus causing the amendment to not be matched with the appropriate application. Applicant also points out that the applicant's name, the filing date and the title were correctly set forth on the amendment and on the postcard. Applicant further points out that a response to the Office action was timely filed on October 28, 2004, as shown by the express mail date of October 28, 2004. Applicant additionally submits a copy of the post card identifying the various papers filed on October 28, 2004. The postcard also has a USPTO date-stamped receipt of October 28, 2004.

In view of this evidence, applicant is considered to have submitted a timely reply.

Applicant's petition is **GRANTED**. The application is restored to pending status with the mailing date of this decision and will be forwarded to the examiner for consideration of the response of October 28, 2004.

Should there be any questions about this decision, please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile at 703-872-9306.

Marianne C. Seidel for

Bruce Kisliuk
Director, Technology Center 1600

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IRVINE CA 92614

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DEC 15 2003

OFFICE OF PETITIONS

Applicant: Hayashi et al.
Appl. No.: 10/149,333
Filing Date: June 6, 2002
Title: RADIOPROTECTIVE MATERIALS AND UTILIZATION THEREOF
Attorney Docket No.: SAEG115.001APC
Pub. No.: US 2003/0080303 A1
Pub. Date: May 1, 2003

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on July 14, 2003.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains an error in the Japanese priority information on the front cover of the published application, as the date should be December 12, 2000, not August 12, 2000.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records . . . Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1]

The request for corrected publication received on July 14, 2003, was not timely filed under 37 CFR 1.221(b).

If the corrected publication request was timely filed, the error in foreign priority date on the first page of the publication would not have been considered a material error, as required by 37 CFR 1.221(b). The Declaration form filed by applicant stated that the date was (day, month, year), not (month, day, year), thus the date was improperly put into the system. The error in the foreign priority claim is not a material mistake because it does not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. The specification and claims were accurately published, thus one can read and understand the content of the application. The error also does not affect the use of the patent application publication as a prior art reference, because the foreign priority date is not useable as a reference.

To reduce this type of error in the future, applicant's representative may want to consider writing out the month instead of using an arabic numeral, as the date is customarily put in the reverse

[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).

order in this country. The error has been corrected in the Office's system. To avoid this type of problem in the future, applicant's representative should review the Filing Receipt and make a request for a corrected filing receipt using the facsimile number (703-746-9195) on the Filing Receipt.

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 or request for reconsideration of this decision, should be addressed as follows:

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

By facsimile: 703-305-8568

The application will be examined in due course.

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Corrected Filing Receipt

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CARL A. KUKKONENE, III
525 SEABRIGHT LANE
SOLANA BEACH, CA 92075

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AUG 1 3 2008

OFFICE OF PETITIONS

In re Application of :
Gary Keith **NOREEN**, et al :
Application No. 10/149,341 : DECISION ON PETITION
Filed: June 8, 2002 : TO WITHDRAW
Attorney Docket No. ECAR-02 FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 3, 2008.

The request is **NOT APPROVED**.

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

The request cannot be approved because the practitioners of record were not appointed by Customer Number 26686, the practitioners of record were appointed individually.

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: FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON, WI 53701-1497

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OFFICE OF PETITIONS

In re Application of
Norton et al.
Application No. 10/149,351
Filed: December 13, 2002
Attorney Docket No. 0220US-Norton
Title of Invention: Recordable Compact Disk Writing and Playing Apparatus

ON PETITION

This is a decision on the petition under 37 CFR §1.181 filed December 30, 2006 to withdraw the holding of abandonment.

The petition filed under 37 CFR 1.181 is **Granted**.

This above-identified application was held abandoned for failure to timely reply to the restriction requirement mailed July 11, 2006. The Restriction Requirement set a one (1) month shortened statutory period for reply. A reply was not received. A Notice of Abandonment was mailed on November 15, 2006.

In the present petition, petitioner contends the Notice of Abandonment was mailed prematurely because pursuant to 37 CFR 1.136(a) petitioner's time period of reply was extendable for an additional five (5) months. Thus, petitioner contends the maximum time period for reply expired on January 11, 2007.

Pursuant to 37 CFR 1.136, petitioner was eligible to purchase an additional five months to reply to the restriction requirement. Thus, the last day petitioner could timely submit a reply was January 11, 2007. A review of the record shows that petitioner submitted a reply to the restriction requirement on December 30, 2006. Petitioner also submitted a five month extension of time with the accompanying fee of $1,080.00.

The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

The requirements for a grantable petition under 37 CFR §1.181 have been met. This petition is hereby **Granted**.

This application is being forwarded to the Technology Center 2627 for further processing of the response to the restriction requirement.

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

Charlema R. Grant

Charlema R. Grant
Petition Attorney
Office of Petitions

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6684805	2004-02-03	10149367	2002-06-06	CUR100.US

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/John A. Galbreath/	Date (YYYY-MM-DD)	2008-12-04
Name	John A. Galbreath	Registration Number	46718

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. 6684805
Issue Date: February 3,2004
Application No. 10149367
Filed: June 6,2002
Attorney Docket No. CUR100.US

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

This is a decision on the electronic petition, filed December 10,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 10,2008 . 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.

24 SEP 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Fran Wasserman, Esq.
Cytec Industries Inc.
1937 West Main Street
Stamford, CT 06904

In re Application of	:	
CARTER, Jeffrey T. et al.	:	
Application No.: 10/149,371	:	DECISION ON
PCT No.: PCT/GB00/04243	:	
Int. Filing Date: 06 November 2000	:	
Priority Date: 04 November 1999	:	PETITION UNDER
Attorney's Docket No.: 99100-01	:	
For: VARIABLE TEMPERATURE CURABLE	:	
COMPOSITION	:	37 CFR 1.137(b)

This is in response to "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. §1.137(b)" filed on 05 June 2002.

BACKGROUND

On 06 November 2000, this international application was filed, which claimed an earliest priority date of 09 November 1999.

A Demand was filed on 03 May 2001 for the above international application. Accordingly, the deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 04 May 2002. This international application became abandoned with respect to the United States at midnight on 04 May 2002 for failure pay the basic national fee.

On 05 June 2002, applicant filed in the United States Patent and Trademark Office (PTO) the instant petition, and a transmittal letter for entry into the national stage in the U.S. under 35 U.S.C. 371, which was accompanied by, *inter alia*, the U.S. basic national fee, and an executed declaration.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b).

DECISION

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. The 35 USC 371 date of this application is **05 June 2002**.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6312
Fax: (703) 308-6459

26 FEB 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
www.uspto.gov

Armstrong, Westerman & Hattori, LLP
1725 K Street, N.W.
Suite 1000
Washington, DC 20006

In re Application of HATAYAMA et al	:	
U.S. Application No.: 10/149,418	:	
Int. Application No.: PCT/JP00/09055	:	DECISION
Int. Filing Date: 20 December 2000	:	
Priority Date: 24 December 1999	:	
Attorney Docket No.: 020754	:	
For: FUEL CELL POWER GENERATING SYSTEM	:	

This is in response to applicant's "Request for Restart" filed 14 November 2002, which is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 20 December 2000, applicant filed international application PCT/JP00/09055, which claimed priority of an earlier Japan application filed 24 December 1999. A copy of the international application was communicated to the USPTO from the International Bureau on 05 July 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 10 July 2001, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 24 June 2002.

On 21 June 20012, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 22 August 2002, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 14 November 2002, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

Pursuant to MPEP 711.03(c), the showing required to establish nonreceipt of an Office communication must include: (1) a statement by the practitioner that the Office communication was not received by the practitioner, (2) a statement by the practitioner that he searched the application file jacket and docket records and that the search indicates that the Office communication was not received, and (3) a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

With regard to item (1) above, applicant's representative has provided the required statement.

With regard to item (2) above, applicant's representative has not provided the required statement.

With regard to item (3) above, applicant's representative has submitted a docket record which lists responses due to the USPTO on 22 October 2002. This docket record illustrates the absence of any listing of a response due to a Notification of Missing Requirements for the present application.

CONCLUSION

Because applicant has not satisfied item (2) above, the petition under 37 CFR 1.181 is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181".

Please direct further correspondence with respect to this matter to the Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the PCT Legal Office.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

26 FEB 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CS/JAZ

Armstrong, Westerman & Hattori, LLP
1725 K Street, N.W.
Suite 1000
Washington, DC 20006

RECEIVED
MAR - 3 2003
ARMSTRONG, WESTERMAN, HATTORI

In re Application of HATAYAMA et al :
U.S. Application No.: 10/149,418 :
Int. Application No.: PCT/JP00/09055 :
Int. Filing Date: 20 December 2000 :
Priority Date: 24 December 1999 :
Attorney Docket No.: 020754 :
For: FUEL CELL POWER GENERATING SYSTEM :

Renewed Petition
Due April 26, 2003

DECISION

This is in response to applicant's "Request for Restart" filed 14 November 2002, which is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 20 December 2000, applicant filed international application PCT/JP00/09055, which claimed priority of an earlier Japan application filed 24 December 1999. A copy of the international application was communicated to the USPTO from the International Bureau on 05 July 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 10 July 2001, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 24 June 2002.

On 21 June 20012, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 22 August 2002, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 14 November 2002, applicant filed the present petition under 37 CFR 1.181.

3-3-03

DISCUSSION

Pursuant to MPEP 711.03(c), the showing required to establish nonreceipt of an Office communication must include: (1) a statement by the practitioner that the Office communication was not received by the practitioner, (2) a statement by the practitioner that he searched the application file jacket and docket records and that the search indicates that the Office communication was not received, and (3) a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

With regard to item (1) above, applicant's representative has provided the required statement.

With regard to item (2) above, applicant's representative has not provided the required statement.

With regard to item (3) above, applicant's representative has submitted a docket record which lists responses due to the USPTO on 22 October 2002. This docket record illustrates the absence of any listing of a response due to a Notification of Missing Requirements for the present application.

CONCLUSION

Because applicant has not satisfied item (2) above, the petition under 37 CFR 1.181 is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181".

Please direct further correspondence with respect to this matter to the Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the PCT Legal Office.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

#7

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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06 MAY 2003

Armstrong, Westerman & Hattori, LLP
1725 K Street, N.W.
Suite 1000
Washington, DC 20006

In re Application of HATAYAMA et al :
U.S. Application No.: 10/149,418 :
Int. Application No.: PCT/JP00/09055 : DECISION
Int. Filing Date: 20 December 2000 :
Priority Date: 24 December 1999 :
Attorney Docket No.: 020754 :
For: FUEL CELL POWER GENERATING :
SYSTEM :

This is in response to applicant's "Renewed Petition Under 37 CFR §1.181." No petition fee is due.

BACKGROUND

On 20 December 2000, applicant filed international application PCT/JP00/09055, which claimed priority of an earlier Japan application filed 24 December 1999. A copy of the international application was communicated to the USPTO from the International Bureau on 05 July 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 10 July 2001, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 24 June 2002.

On 21 June 20012, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 22 August 2002, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 14 November 2002, applicant filed a petition under 37 CFR 1.181.

On 26 February 2003, this Office mailed a decision dismissing the 14 November 2002 petition.

On 28 April 2003, applicant filed the present renewed petition under 37 CFR 1.181.

DISCUSSION

Pursuant to MPEP 711.03(c), the showing required to establish nonreceipt of an Office communication must include: (1) a statement by the practitioner that the Office communication was not received by the practitioner, (2) a statement by the practitioner that he searched the application file jacket and docket records and that the search indicates that the Office communication was not received, and (3) a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Applicant has previously satisfied items (1) and (3) above.

With regard to item (2) above, applicant's representative has provided the required statement.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.181 is GRANTED.

The period for response to the Notification of Missing Requirements is hereby restarted to run from 08 November 2002. Applicant is advised that although the renewed petition states that a response to the Notification of Missing Requirements was filed on 22 November 2002, a review of the application file reveals that no such response is present.

The application is being returned to the DO/EO/US for processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

#9

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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14 JUL 2003

Armstrong, Westerman & Hattori, LLP
1725 K Street, N.W.
Suite 1000
Washington, DC 20006

In re Application of HATAYAMA et al
U.S. Application No.: 10/149,418
Int. Application No.: PCT/JP00/09055
Int. Filing Date: 20 December 2000
Priority Date: 24 December 1999
Attorney Docket No.: 020754
For: FUEL CELL POWER GENERATING SYSTEM

DECISION

This is in response to applicant's "Letter" filed 04 June 2003, which is being treated as a petition under 37 CFR §1.181. No petition fee is due.

BACKGROUND

On 20 December 2000, applicant filed international application PCT/JP00/09055, which claimed priority of an earlier Japan application filed 24 December 1999. A copy of the international application was communicated to the USPTO from the International Bureau on 05 July 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 10 July 2001, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 24 June 2002.

On 21 June 20012, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 22 August 2002, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 14 November 2002, applicant filed a petition under 37 CFR 1.181.

On 26 February 2003, this Office mailed a decision dismissing the 14 November 2002 petition.

On 28 April 2003, applicant filed a renewed petition under 37 CFR 1.181.

On 06 May 2003, this Office mailed a decision which restarted the period for response to the Notification of Missing Requirements to run from 08 November 2002.

On 04 June 2003, applicant filed the present petition under 37 CFR 1.181 along with a copy of a declaration purportedly filed on 22 November 2002.

DISCUSSION

The evidence of record is sufficient to establish that the declaration was originally filed on 22 November 2002. Specifically, the copy of the return postcard, which includes a "Declaration" in its itemized contents and which bears a USPTO date stamp of 22 November 2002, serves as *prima facie* evidence that the declaration was received by the USPTO on 22 November 2002.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is GRANTED.

The application has an International Filing Date of 20 December 2000 and a date under 35 U.S.C. 371(c) of 22 November 2002.

The application is being returned to the DO/EO/US for processing in accordance with this decision.

Bryan

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

0 3 MAR 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
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WASHINGTON, D.C. 20231
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GREENBLUM & BERNSTEIN, P.L.C.
1941 ROLAND CLARKE PLACE
RESTON, VA 20191

In re Application of	:	DECISION ON
UENO et al.	:	
Application No.: 10/149,423	:	PETITION UNDER
PCT No.: PCT/JP00/09160	:	
Int. Filing Date: 22 December 2000	:	37 CFR 1.182
Priority Date: 24 December 1999	:	
For: FUSED PURINE DERIVATIVES	:	

This is a decision on applicants' "Petition under 37 CFR 1.182" and response to Notification of Missing Requirements , filed with the United States Patent and Trademark Office (USPTO) on 22 October 2002. Applicants request that the application reflect joint inventor Chiharu Suzuki family name change from Chiharu Suzuki to Chiharu Nakagawa. The $130 petition fee was paid.

On 21 June 2002, within 30 months from the priority date of the international application, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*,: the requisite basic national fee and an English translation of the international application. The international application indicated that the inventors/applicants for the United States of America included Chiharu Suzuki as a named joint inventor.

On 22 August 2002, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants indicating that applicants must furnish an oath or declaration in compliance with 37 CFR 1.497(a) and (b), and executed in accord with either 37 CFR 1.66 or 1.68, and the $130 surcharge for filing the oath or declaration after the thirty month period was required.

On 22 October 2002, applicants filed the instant communication in response to Notification of Missing Requirements including the petition under 1.182. The petition indicated that Chiharu Suzuki married and changed her family name to Chiharu Nakagawa subsequent to the filing of the international application. Applicants also submitted an affidavit signed by Chiharu Nakagawa indicating the reason for the name change.

DISCUSSION

As explained in MPEP 605.04(c), applicants must provide "an affidavit signed with both names setting forth the procedure whereby the change of name was effected, or a certified copy of the court order." Here, applicant submitted a signed affidavit identifying both names, Chiharu Suzuki and Chiharu Nakagawa. Ms. Nakagawa states that her marriage resulted in a change of name from Suzuki to Nakagawa. The evidence is sufficient to conclude that Chiharu Suzuki changed her name by marriage to Chiharu Nakagawa.

The declaration submitted on 22 October 2002 identifies each inventor and country of citizenship of each inventor. Thus, the requirements of 37 CFR 1.497 have been met and the declaration is acceptable.

CONCLUSION

The petition under 37 CFR 1.182 to change the inventor's name from Chiharu Suzuki to Chiharu Nakagawa is **GRANTED**.

The declaration submitted on 22 October 2002 is acceptable as filed. The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371 date is **22 October 2002**.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: 703-306-5467

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : **September 24,2007**

TO SPE OF : ART UNIT **1624**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/149,423** Patent No.: **7005430 B2**

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

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

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

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

_____

_____

_____

_____

SPE

1624
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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DENNISON, SCHULTZ, DOUGHERTY & MACDONALD
1727 KING STREET
SUITE 105
ALEXANDRIA VA 22314

COPY MAILED

JAN 18 2005

OFFICE OF PETITIONS

In re Patent No. 6,770,292 :
Issue Date: August 3, 2004 :
Application No. 10/149,428 : ON PETITION
Filed: June 24, 2002 :
Attorney Docket No. 02116 :

This is a decision on the petition filed November 22, 2004, which is being treated as a petition under 37 CFR 1.81(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 file is being forwarded to the Certificates of Correction Branch for issuance of the requested certificate of correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Questions regarding the certificate of correction should be directed to Certificate of Corrections Branch at (703) 305-8347 or (703) 305-8228.

Sherry D. Brinkley
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

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.
10/149,433	06/24/2002	Sylvain Delage	224638US2PCT	2193

22850 7590 12/14/2004

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER	
COLEMAN, WILLIAM D	

ART UNIT	PAPER NUMBER
2823	

DATE MAILED: 12/14/2004

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

December 13, 2004

OBLON, SPIVAK, MCCLELLAND,
MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

In Re Application of :
DELAGE ET AL. : DECISION ON PETITION
Application No. 10/149,433 :
Filing Date: June 24, 2002 :
Attorney Docket No. 224638US2 PCT
Title: BIPOLAR TRANSISTOR WITH UPPER HETEROJUNCTION COLLECTOR AND METHOD FOR MAKING SAME POWER-ON RESET SYSTEM

This is a decision on the petition pursuant to 37 C.F.R § 1.181 (a) (3) filed in duplicate on November 3rd and 8th 2004, requesting consideration of the foreign patent documents cited in the Information Disclosure Statement filed June 24, 2002.

The petition is ***GRANTED***.

Subsequent to mailing of this decision, the examiner will consider the references cited in the above referenced Information Disclosure Statement and expeditiously communicate to applicants the appropriate Office Action.

All inquiries should be addressed to Olik Chaudhuri at (571) 272-1855.

Olik Chaudhuri
Supervisory Patent Examiner
Art Unit 2823, Technology Center 2800

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

APR 0 2 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Paper No. 7

William H. Dippert
Reed Smith
375 Park Avenue
New York, NY 10152

In re Application of: Doron Rainish
Application No. 10/149,470
Filed: June 6, 2002
For: PROGRAMMABLE CONVOLVER

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed February 25, 2003.

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

The request is **GRANTED**.

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

FOR

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

cc: Naomi Liver
Eitan, Pearl, Latzer & Cohen-Zedek
1 Gam Yam Center, 2nd Floor 7
Shenkar Street
Herzlia, Israel 46733

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FRIEDRICH KUEFFNER
SUITE 910
317 MADISON AVENUE
NEW YORK, NY 10017

COPY MAILED

JUN 15 2006

OFFICE OF PETITIONS

In re Application of :
Dietmar Eppert :
Application No. 10/149,480 : ON PETITION
Filed: June 11, 2002 :
Attorney Docket No.: BM-98PCT

This is a decision on the petition filed May 22, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed November 1, 2005. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned February 2, 2006. The instant petition and this decision precede the mailing of the Notice of Abandonment.

This matter is being referred to Technology Center 3636 for appropriate action on the amendment filed May 22, 2006.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : December 9, 2008 Paper No.: _____

TO SPE OF : ART UNIT 2624 Matthew C. Bella

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/149,486 Patent No.: 7373015 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

SHOULD FORMAL DRAWINGS BE SUBSTITUTED WITH FORMAL DRAWING CORRECTED IN THE SUPPLEMENTAL PRELIMINARY AMENDMENT THAT WAS NEVER ACTED ON BY EXAMINER? (SEE COCIN DATED 12-8-2008)

Antonia 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: The drawing correction filed on 08/12/2008 was approved by Examiner.

BRIAN WERNER
SUPERVISORY PATENT EXAMINER

BRIAN WERNER
SUPERVISORY PATENT EXAMINER

2624
Art Unit

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BLACK LOWE & GRAHAM, PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE WA 98104

COPY MAILED

JUN 0 9 2006

OFFICE OF PETITIONS

In re Application of :
Jaime Marti Sala :
Application No. 10/149,500 : ON PETITION
Filed: November 12, 2002 :
Attorney Docket No. 630178-404USPC :

This is a decision on the petition filed October 6, 2004, under 37 CFR 1.181, to withdraw the holding of abandonment for the above-identified application.

The petition to withdraw the holding of abandonment is **GRANTED**.

The application was held abandoned on May 11, 2004 for failure to file a timely response to the non-Final Office Action mailed February 9, 2004, which set a three (3) month shortened period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed September 17, 2004.

Petitioner asserts that a proper response, with a two month extension of time was filed on July 15, 2004. In support, petitioner submits a postcard receipt date stamped July 18, 2004 by the USPTO and copy of the reply said to have been filed, which includes a certificate of mail dated July 15, 2005, pursuant to 37 CFR 1.8.

The evidence submitted corroborates a timely response to the non-Final Office Action. Accordingly, the holding of abandonment is withdrawn and the Notice of Abandonment is vacated. No petition fee is due and none has been charged. However, since petitioner had also filed an extension of time with the response and since it isn't clear whether or not the check filed with the response was received, deposit account no. 50-1050 will be charged in the amount of $210.00.

The last paragraph of the petition argues that in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513, a Substitute Notice of Allowance should be mailed. Petitioner's are advised that a Notice of Allowance has never been mailed in this matter and that the abandonment was based on what was believed to be a failure to file a timely response to a non-Final Office Action mailed February 9, 2004.

This matter is being referred to Technology Center 3731 for appropriate action on the amendment filed September 10, 2003, a copy of which was submitted upon petition.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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BLACK LOWE & GRAHAM, PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE WA 98104

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OCT 25 2006
OFFICE OF PETITIONS

In re Application of :
Jaime Marti Sala :
Application No. 10/149,500 : ON PETITION
Filed: November 12, 2002 :
Attorney Docket No. 630178-404USPC :

This is a decision on the "Request for Reconsideration" filed June 29, 2006, which is treated as a petition under 37 CFR 1.181.

The petition is **GRANTED**.

A petition filed October 12, 2005 to withdraw the holding of abandonment was granted in a decision mailed June 8, 2006. The evidence presented corroborated the claim that the response had been timely filed and included a copy of the reply said to have been filed, with a certificate of mail dated June 15, 2004, pursuant to 37 CFR 1.8, a postcard receipt date stamped June 18, 2004 by the USPTO and a two month extension of time request.

At the time the decision was rendered, it wasn't clear that the extension of time had been paid for. With the instant request for reconsideration petitioner provides evidence that payment for the extension of time request filed June 15, 2004 had been made by a check in the amount of $210.00 and that the check had been processed.

A review of the record reveals that the check was in fact processed on June 23, 2004 and applied to the finance records for the instant application.

Given the basis for the withdrawal of the abandonment and the proof that the two month extension of time was accompanied by an extension of time fee, the request for a refund is appropriate. Please note that $210.00 has been credited back to deposit account no. 50-1050. No other fees are due and none have been charged.

This matter is being referred to Technology Center 3731.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE
15 NOV 2002
COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Perkins Coie LLP
P.O. Box 2168
Menlo Park, CA 94026

In re Application of	:	
Ohashi et al.	:	
Application No. 10/149,506	:	DECISION ON
PCT No.: PCT/JP00/08728	:	
Int. Filing Date: 08 December 2000	:	PETITION UNDER
Priority Date: 10 December 1999	:	
Atty. Docket No.: 59150-8019	:	37 CFR 1.137(b)
For: Rice Peroxidases With	:	
Various Characteristics	:	

This is in response to the petition under 37 CFR 1.137(b) filed on 10 June 2002.

BACKGROUND

This international application was filed on 08 December 2000 and claimed earliest priority of an application filed on 10 December 1999. The International Bureau, under Article 20, transmitted a copy of the international application to the USPTO on 14 June 2001. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 10 June 2002.

On 06 September 2002, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicant, indicating that this application had become abandoned with respect to the United States for failure to timely pay the required basic national fee and noting that counsel had not provided authorization to charge the basic national fee.

On 18 September 2002, applicants filed the instant petition.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (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 (c) of this section.

Regarding requirement (1), the required reply in the form of authorization to charge the basic national fee to counsel's deposit account accompanied the petition.

Regarding requirement (2), the petition authorized the petition fee to be charged to counsel's deposit account.

Regarding requirement (3), the petition includes an appropriate statement.

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

DECISION

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

This application is being forwarded to the National Stage Processing Branch for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the submission of an executed oath or declaration in compliance with 37 CFR 1.497(a) and (b).

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080220

DATE : February 20, 2008

TO SPE OF : ART UNIT 1638

SUBJECT : Request for Certificate of Correction on Patent No.: 7,214,851

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.

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 appropriated box.

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

Comments:

The Sequence Listing of 30 December 2005, containing the proper number of sequences, namely 91 sequences, corresponds to the entered Computer Readable Format of the Sequence Listing.

SPE: 1638 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LAURA A. RYAN
FOGG AND ASSOCIATES, LLC
P.O. BOX 581339
MINNEAPOLIS, MN 55458-1339

COPY MAILED

NOV 0 5 2004

OFFICE OF PETITIONS

In re Application of :
Phillip St. John Russell et al :
Application No. 10/149,556 : ON PETITION
Filed: October 10, 2002 :
Attorney Docket No. 141.002US01 :

This is a decision on the petition, filed September 13, 2004, to correct assignment data on Form PTOL-85(b).

The petition is **granted.**

The requested data will be printed on the patent if this can be accomplished without substantial disruption to the issue process. However, it the printing of the patent has progressed to the point where the requested data cannot be included in the printed patent, petitioner can request a Certificate of Correction under 37 CFR 1.322.

This matter is being forwarded to the Publishing Division to be processed into a patent.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5-16-2005

TO SPE OF : ART UNIT 2876

SUBJECT : Request for Certificate of Correction on Patent No.: 6,853,786

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:

Replacing "Phillip" with - Philip - does not apply because all submitted papers in the file contain "Phillip" not "Philip". On 6/21/05, Ms. Ryan was contacted and confirmed about the subject matter. With respect to all other changes requested, the patent should read as shown in the certificate of correction.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. None

Evelyn A. Defillo
Pendorf & Cutliff
5111 Memorial Highway
Tampa, FL 33634-7356

COPY MAILED

SEP 11 2006

OFFICE OF PETITIONS

In re Application of	:	
Ute Rohde et al.	:	
Application No. 10/149,564	:	DECISION ON PETITION
Filed: September 9, 2002	:	UNDER 37 C.F.R. §1.181
Attorney Docket No.: Mo-5430US/HR-22-US	:	
Title: ODOR NEUTRALIZERS	:	

This is a decision on the petition filed on July 31, 2006, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed February 9, 2005, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on May 10, 2005. A notice of abandonment was mailed on August 26, 2005.

With the present petition, Petitioner has alleged that the mailing was not received. 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. In addition, a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement[1].

1 See MPEP 711.03(c).

Petitioner has met some of the requirements of Delgar v. Schuyler, 172 USPQ 513 (D.D.C. 1971). Petitioner has asserted that he has searched both the file and the file jacket, and the Office communication was not found. Petitioner has neither searched the docket record nor provided a copy of the same. However, as it is clear that this Office communication was returned to the Office, and it is equally clear that a change of address was received on November 18, 2004 but never effectuated, this requirement is waived *sua sponte*.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that the mailing was not received.

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

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 received with the present petition can be processed.

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

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

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

11 MAY 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

Sheldon I. Landsman
Sughrue Mion, PLLC
2100 Pennsylvania Avenue, NW
Washington, DC 20037-3213

In re Application of :
KAMIMURA :
Application No.: 10/149,579 : DECISION ON PETITION
PCT No.: PCT/JP01/09152 :
Int. Filing Date: 18 October 2001 : UNDER 37 CFR 1.181
Priority Date: 20 October 2000 :
For: METHOD OF PRODUCING LOW SODA ALUMINA, LOW SODA ALUMINA PRODUCED BY THE METHOD AND METHOD OF PRODUCING PORCELAIN :

This decision is in response to applicant's "Request for a Corrected Filing Receipt and a Corrected Notification of Acceptance Under 35 U.S.C. § 371" filed 05 March 2004, requesting that the United States Patent and Trademark Office (USPTO) correct the 371(c) date for the above captioned application. The request is being treated as a petition under 37 CFR 1.181. No petition fee is required.

DISCUSSION

Applicant has provided a legible copy of the receipt postcard which shows a USPTO date stamp, "OIPE Patent & Trademark Office JC34 JUN 11 2002" and clearly identifies, "Decl YES" as well as listing inventors, title of application and attorney docket number. The evidence is sufficient to establish that the combined declaration and power of attorney for this application was received in the USPTO on 11 June 2002. An examination of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States were satisfied on 11 June 2002. As such, it is proper to **GRANT** applicant's petition at this time.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

The application will be given an international filing date of 18 October 2001 under 35 U.S.C. 363 and a date of **11 June 2002** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

The "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) mailed 31 July 2003 indicating a date of 13 June 2002 under

35 U.S.C. 371(c) is hereby **VACATED**.

This application is being returned to the United States Designated/Elected Office (US/DO/EO) for further processing in accordance with this decision, namely the issuance of a "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) and a corrected filing receipt indicating the correct 371 date as detailed above.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (703) 305-0130
Fax: (703) 308-6459

Sughrue
SUGHRUE MION, PLLC

2100 Pennsylvania Avenue, NW
Washington, DC 20037-3213
T 202.293.7060
F 202.293.7860

www.sughrue.com

FAX

Date	March 5, 2004		
To	Examiner Derek A. Putonen		
Of	Office of PCT Legal Administration		
Fax	703-308-6459		
From	Sheldon I. Landsman		
Subject	**Request for a Corrected Filing Receipt and a Corrected Notification of Acceptance Under 35 U.S.C. § 371**		
Our Ref	Q65185	Appln No	10/149,579
Conf No	6804	Inventors	Katsuhiko KAMIMURA
Pages	4 (four) (including cover sheet)		

Please call attention to problems with this transmission by return fax or telephone. Thank you.

THE INFORMATION CONTAINED IN THIS COMMUNICATION IS CONFIDENTIAL, MAY BE ATTORNEY-CLIENT PRIVILEGED, AND IS INTENDED ONLY FOR THE USE OF THE ADDRESSEE. UNAUTHORIZED USE, DISCLOSURE OR COPYING IS STRICTLY PROHIBITED AND MAY BE UNLAWFUL. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY NOTIFY US.

This fax filing includes:

1. This cover sheet
2. Request For Corrected Official Filing Receipt and Notice of Acceptance of Application Under 35 U.S.C. 371 and 37 C.F.R. 1.495.
3. A copy of the date stamped filing receipt of the application papers filed on June 11, 2002.

CERTIFICATION OF FACSIMILE TRANSMISSION

Sir:

I hereby certify that the above identified correspondence is being facsimile transmitted to Examiner Derek A. Putonen at the Office of PCT Legal Administration on March 5, 2004 at 703-308-6459.

Respectfully submitted,

Sheldon I. Landsman

Sheldon I. Landsman

RECEIVED
05 MAR 2004
Legal Staff
International Division

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Katsuhiko KAMIMURA

Appln. No.: 10/149,579

Confirmation No.: 6804

Filed: June 11, 2002

Docket No: Q65185

Group Art Unit: 1754

Examiner: Not Yet Assigned

For: METHOD FOR PRODUCING LOW SODA ALUMINA, LOW SODA ALUMINA PRODUCED BY THE METHOD AND METHOD OF PRODUCING PORCELAIN

REQUEST FOR CORRECTED OFFICIAL FILING RECEIPT AND A CORRECTED NOTIFICATION OF ACCEPTANCE UNDER 35 U.S.C. § 371

ATTN: Office of Initial Patent Examination
Filing Receipt Correction
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants hereby request issuance of a Corrected Official Filing Receipt and a Corrected Notification of Acceptance Under 35 U.S.C. § 371 to correct the filing date to June 11, 2002, instead of the June 13, 2002 date that now appears on these papers.

Applicants attach herewith a copy of a filing receipt stamped by the Patent & Trademark Office (OIPE) with a date of June 11, 2002, showing that the application papers were, in fact, filed on June 11, 2002.

Respectfully submitted,

Sheldon I. Landsman

Sheldon I. Landsman
Registration No. 25,430

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE
23373
CUSTOMER NUMBER

Date: March 5, 2004

CERTIFICATION OF FACSIMILE TRANSMISSION

Sir:

I hereby certify that the above identified correspondence entitled Request for a Corrected Filing Receipt and a Corrected Notification of Acceptance Under 35 U.S.C. § 371 is being facsimile transmitted to Examiner Derek A. Putonen at the Office of PCT Legal Administration on March 5, 2004 at 703-308-6459.

Respectfully submitted,

Sheldon I. Landsman

6

PCT/JP01/09152 filed October 18, 2001
REQUEST FOR EARLY NOTIFICATION OF SERIAL NUMBER

Inventor(s): Katsuhiko KAMIMURA

Title: METHOD OF PRODUCING LOW SODA ALUMINA, LOW SODA ALUMINA PRODUCED BY THE METHOD AND METHOD OF PRODUCING PORCELAIN

Atty Doc. #: Q65185 Client: FUKUDA PATENT OFFICE

Filing Date: June 11, 2002 # Pgs. Spec/Abst: #Claims: 14

Dwg. Sheets: Decl YES Prelim Amdt NO
PTO Form 1595 $40.00
IDS/Prior Art: NO Pr Doc: NO Asgmt: YES Fee: $1,326.00

☑ Check Attached ☐ Charge to Deposit # 19-4880 Atty/Sec: SIL/rwl

SERIAL NO.: CONF NO.:

****
*** RX REPORT ***
****

RECEPTION OK

TX/RX NO	6190
RECIPIENT ADDRESS	202 293 7860
DESTINATION ID	
ST. TIME	03/05 17:05
TIME USE	00'42
PGS.	4
RESULT	OK

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.
10/149,612	09/27/2002	Salvatore Cassara	22106/001	8394

7590 07/14/2005

Burton A Amernick
Connolly Bove Lodge & Hutz
PO Box 19088
Washington, DC 20036-0088

EXAMINER	
MASINICK, MICHAEL D	

ART UNIT	PAPER NUMBER
2125	

DATE MAILED: 07/14/2005

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

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/149,612	Applicant(s) CASSARA ET AL.	
	Examiner Michael D. Masinick	Art Unit 2125	

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

THE REPLY FILED 23 June 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

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

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

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

NOTICE OF APPEAL

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

AMENDMENTS

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

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

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *21-35*.
   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: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

Albert W. Paladini 7-5-05
ALBERT W. PALADINI
PRIMARY EXAMINER

Continuation of 3. NOTE: Applicant's wording changes to independent claim 1 require further search and consideration.

16 SEP 2002
UNITED STATES PATENT AND TRADEMARK OFFICE

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PENNIE & EDMONDS LLP
1667 K STREET NW
SUITE 1000
WASHINGTON, DC 20006

In re Application of MOIREAU et al. Serial No.: 10/149,633 PCT No.: PCT/FR00/02364 Int. Filing Date: 24 August 2000 Priority Date: 03 September 1999 Attorney's Docket No.: 4068-041 For: METHOD FOR MAKING YARN AND PRODUCTS COMPRISING SAME	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 12 June 2002 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

The application went abandoned for failure to pay the basic national fee by the 30 month deadline. A review of the application file reveals that the basic national fee of $890 has been paid. The required petition fee of $1280 has also been paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for further processing. The 35 U.S.C. 371 date is **12 June 2002.**

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467

22 JAN 2004

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Weisz, Tiberiu
Gottlieb Rackman & Reisman PC
270 Madison Avenue
New York, NY 10016-0601

In re Application of:	:	
Dadd et al.	:	DECISION ON
Application No.: 10/149,642	:	PETITION
PCT No.: PCT/AU01/01231	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 28 September 2001	:	
Priority Date: 04 October 2000		
Docket No. 4396-007	:	
For: COCHLEAR IMPLANT ELECTRODE ARRAY	:	

This is in response to the petition filed 13 November 2003 under 37 CFR 1.137 (b) to revive the above-identified abandoned application for "unintentional" delay.

BACKGROUND

On 28 September 2001, applicants filed international application PCT/AU01/01231, which claimed priority to an earlier application, filed 04 October 2000. Accordingly, the thirty month period for paying the basic national fee in the United States expired at midnight on 04 April 2003.

On 13 June 2002, the applicants submitted the form 1390 to enter the national stage. A check of the amount $1166.00 for the basic national fee was enclosed, including an authorization to charge Deposit Account No. 07-1730 for any additional fees. A Declaration executed by the inventors was not submitted with the submission.

On 27 August 2002, a NOTIFICATION OF MISSING REQUIREMENTS was mailed to the applicants. The applicants failed to respond within the TWO MONTH period requirement.

On 30 October 2003, a NOTIFICATION OF ABANDONMENT was mailed to the applicants.

On 13 November 2003, the present petition was filed. A check of the amount $1330.00, and an executed declaration by the inventors were submitted with the petition.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, (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 under 37 CFR 1.137(b) was unintentional, and (4) a terminal disclaimer with disclaimer fee

(only for utility and plant applications filed before 08 June 1995).

Regarding items (1) and (2), applicants furnished the U.S. Basic National Fee of $1166.00 and petition fee of $1330.00 by check.

Regarding item (3), the petition includes a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

Regarding item (4), because applicants' filing date of 28 September 2001 is after 08 June 1995, the requirement of a terminal disclaimer with disclaimer fee is not applicable in this case.

Accordingly, applicants have satisfied each of the requirements of 37CFR1.137(b).

A surcharges of $130.00 for submitting the Declaration later than the 30 months of the priority date will be charged to the counsel's Deposit Account No. 07-1730.

CONCLUSION

The request to revive the application abandoned under 37 CFR 137(b) is **GRANTED** as to the National stage in the United States of America.

Applicants' claim for priority is acknowledged. The application has an international filing date of 28 September 2001 under 35 USC 363, and a date of **13 November 2003** under 35 USC 371.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further review and processing in accordance with this decision.

Shih-yung Hsieh
PCT Legal Detailee
PCT Legal Office
Telephone: (703) 308-6162
Facsimile: (703) 308-6459

Boris Milef
PCT Legal Examiner
PCT Legal Office

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WASHINGTON, D.C. 20231
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Paul R. Morico
BAKER BOTTS LLP
910 Louisiana
Houston, TX 77002

In re Application of :
VERPOORT, Thierry *et al* :
U.S. Application No.: 10/149,665 :
PCT No.: PCT/FR00/02969 :
Int. Filing Date: 25 October 2000 :
Priority Date: 10 December 1999 :
Docket No.: 073510.0105 :
For: UNIT FOR FILTERING A FLUID :

DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)

Applicants' "Petition for Revival of an International Application for Patent Designating the US Abandoned Unintentionally Under 37 CFR 1.137(b)" filed on 13 June 2002 is hereby **GRANTED** as follows:

The appropriate basic national fee and petition fee has been paid. The surcharge fee of $130.00 has been charged to counsel's Deposit Account No. 02-0383 as authorized. Applicants state that "[t]he entire delay in filing the 35 U.S.C. 371(c) requirements from their due date until filing of a grantable petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3). A terminal disclaimer is not required in this case. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

The declaration and national stage papers were submitted on 11 June 2002.

Applicants have completed the requirements for acceptance under 35 U.S.C. § 371(c). The application has an international filing date of 25 October 2000, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of **11 June 2002**.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

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Commissioner for Patents
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

Morrison & Foerster LLP
1650 Tysons Boulevard
Suite 400
Mclean, VA 22102

In re Application of :
Peter Leis et al. :
Application No. 10/149,672 : DECISION ON PETITION
Filed: June 13, 2002 : TO WITHDRAW
Attorney Docket No. 449122035800 : 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 18, 2007.

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

A review of the file record indicates that the power of attorney to Morrison & Foerster LLP has been revoked by the assignee of the patent application on September 5, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Bell, Boyd & Lloyd, LLP**
P.O. Box 1135
Chicago, IL 60690

UNITED STATES PATENT AND TRADEMARK OFFICE

20 SEP 2002

#6

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

Young & Thompson
745 S. 23rd St.
Arlington, VA 22202

In re Application of
Doubochinski et al.
Application No. 10/149696
PCT No.: PCT/FR00/03439
Int. Filing Date: 07 December 2000
Priority Date: 10 December 1999
For: Method And Vibrating Device For Conditioning, Air-Conditioning, Cooling And Decontaminating...

DECISION ON

PETITION UNDER

37 CFR 1.137(b)

This is in response to the petition under 37 CFR 1.137(b) filed on 14 June 2002.

BACKGROUND

This international application was filed on 07 December 2000, claiming priority of an application filed on 10 December 1999. No Demand electing the United States was filed prior to the elapse of 19 months from the priority date. Accordingly, the 20 month time period for paying the basic national fee in the United States expired at midnight on 10 August 2001. This international application became abandoned with respect to the United States for failure to timely pay the required basic national fee.

On 14 June 2002, applicants filed the instant petition.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (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 (c) of this section.

Regarding requirement (1), applicants have filed the required reply in the form of the basic national fee.

Regarding requirement (2), the petition fee accompanied the petition.

Regarding requirement (3), the petition includes an appropriate statement.

Regarding requirement (4), no terminal disclaimer is required because the

international filing date of this application is later than 8 June 1995.

DECISION

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

This application is being forwarded to the National Stage Processing Branch for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the submission of an oath or declaration.

Boris Milef
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459

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WWW.USPTO.GOV

JASON R BOND
MEDLEN & CARROLL
SUITE 350
101 HOWARD STREET
SAN FRANCISCO CA 94105

#9

In re Application of	:
Jeffrey S. Chamberlain et al	:
Serial No.: 10/149,736	: PETITION TO MAKE SPECIAL
Filed: November 25, 2002	:
Attorney Docket No.: UM 06968	:

This is in response to applicants' petition filed November 25, 2002, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

The petition fee of $130.00 will be charged to applicants Deposit Account No. 08-1290, as directed.

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, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 305-7230

09 OCT 200

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WASHINGTON, D.C. 20231
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Marcia H. Sundeen
Pennie & Edmonds LLP
1667 K Street NW
Washington, D.C. 20006

In re Application of :
BORDEAUX, Frederic :
Application No.: 10/149,742 : DECISION ON PETITION
PCT No.: PCT/FR00/02405 : UNDER 37 CFR 1.137(b)
Int. Filing Date: 30 August 2000 :
Priority Date: 03 September 1999 :
Attorney Docket No.: 3633-516 :
For: INTERLAYER AND LAMINATED
GLASS PANEL COMPRISING SAME

This is a decision on applicant's "Petition for Revival of International Application for Patent Designating the U.S. Abandoned Unintentionally under 37 CFR 1.137(b)" filed 12 June 2002 and "Status Inquiry" filed 26 August 2002 and 26 September 2002.

The petition to revive under 37 CFR 1.137(b) in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has submitted the basic national fee of $890 and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision. The 35 U.S.C. 371(c) date is **12 June 2002**.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (703) 308-6314
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

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JAN 18 2007

OFFICE OF PETITIONS

In re Application of :
David William Parker et al :
Application No. 10/149,756 : ON PETITION
Filed: October 8, 2002 :
Attorney Docket No. 1652-14 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 14, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 7, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 8, 2005.

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

This matter is being forwarded to Technology Center AU 3767 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Mail Date: 04/21/2010

Applicant	: Harald Haas	: DECISION ON REQUEST FOR
Patent Number	: 7626953	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/149,797	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/21/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1744** 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.

#6

16 APR 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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Devin R. Jensen
Myers, Bigel, Sibley & Sajovec
P.O. Box 37428
Raleigh, NC 27627

In re Application of	:	
McGowen, et.al.	:	
Application No.: 10/149,799	:	
PCT No.: PCT/GB00/04760	:	
Int. Filing Date: 13 December 2000	:	DECISION
Priority Date: 13 December 1999	:	
Attorney's Docket No.: 9052-124	:	
For: PREPARATION OF METALLOCENES	:	
CARRYING A CYCLOPENT ADIENE COMPRISING	:	
A BASIC DONOR GROUP	:	

This is a decision in response to the declaration and surcharge filed on 16 October 2002.

BACKGROUND

On 13 December 2000, applicants filed international application PCT/GB00/04760 which claimed priority to a British application. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 14 June 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 12 July 2001 prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 13 June 2002.

On 13 June 2002, applicants filed a letter for entry into the national stage in the United States which was accompanied by a copy of the international application, a copy of the written opinion and the response thereto, a copy of the international preliminary examination report, an information disclosure statement, a preliminary amendment, extra claim fees of $306 and the basic national fee of $890 as required by 35 U.S.C. 371(c). These papers were assigned application number 10/149,799.

On 26 August 2002, the United States Patent and Trademark Office in its capacity as an Elected Office mailed the "NOTIFICATION OF MISSING REQUIREMENTS

UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) indicating that applicant was required to file an oath/declaration and the $130 surcharge for filing the oath/declaration after thirty months from the priority date. The notification set a two-month time period in which to respond.

In order to satisfy the requirements of 35 U.S.C. 371(c)(4), on 16 October 2002, applicants filed the following papers:

1) a Response to Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) including a Petition under 37 CFR 1.47(a);

2) the $130 fee for filing the declaration after thirty months from the earliest priority date;

3) a declaration signed by the inventors.

DISCUSSION

37 CFR 1.52 states, in part:

> "(c)(1)Any interlineation, erasure, cancellation or other alteration of the application papers filed must be made before the signing of any accompanying oath or declaration pursuant to § 1.63 referring to those application papers and should be dated and initialed or signed by the applicant on the same sheet of paper. Application papers containing alterations made after the signing of an oath or declaration referring to those application papers must be supported by a supplemental oath or declaration under § 1.67. In either situation, a substitute specification (§ 1.125) is required if the application papers do not comply with paragraphs (a) and (b) of this section."

With respect to the declaration submitted 16 October 2002, part of inventor Margaret Dymphna McGowan's name has been crossed through and "ANNE DYMPHNA" has been written above it. It is not clear when these changes were made or by whom since applicants failed to initial or date these changes.

CONCLUSION

For the reasons above, the declaration is **NOT ACCEPTED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any

reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C., 20231, with the contents of this letter marked to the attention of the PCT Legal Office.

Applicant is advised that, effective May 1, 2003, the Office is changing its correspondence address. Any further correspondence with respect to this matter deposited with the United States Postal Service on or after May 1, 2003 should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Debra S. Brittingham
PCT Special Programs Examiner
PCT Legal Office

Leonard Smith
PCT Legal Examiner
PCT Legal Office

DSB/LS:dsb
Telephone: (703) 308-3401
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#10

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0 5 AUG 2003

Devin R. Jensen
Myers, Bigel, Sibley & Sajovec
P.O. Box 37428
Raleigh, NC 27627

In re Application of	:	
McGowen, et.al.	:	
Application No.: 10/149,799	:	
PCT No.: PCT/GB00/04760	:	
Int. Filing Date: 13 December 2000	:	DECISION
Priority Date: 13 December 1999	:	
Attorney's Docket No.: 9052-124	:	
For: PREPARATION OF METALLOCENES	:	
CARRYING A CYCLOPENT ADIENE COMPRISING	:	
A BASIC DONOR GROUP	:	

This is a decision in response to the "Declaration of the Inventors" filed on 16 June 2003.

BACKGROUND

On 13 December 2000, applicants filed international application PCT/GB00/04760 which claimed priority to a British application. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 14 June 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 12 July 2001 prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 13 June 2002.

On 13 June 2002, applicants filed a letter for entry into the national stage in the United States which was accompanied by a copy of the international application, a copy of the written opinion and the response thereto, a copy of the international preliminary examination report, an information disclosure statement, a preliminary amendment, extra claim fees of $306 and the basic national fee of $890 as required by 35 U.S.C. 371(c). These papers were assigned application number 10/149,799.

On 26 August 2002, the United States Patent and Trademark Office in its capacity as an Elected Office mailed the "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) indicating that applicant was required to file an oath/declaration and the $130 surcharge for filing the oath/declaration after thirty months from the priority date. The notification set a two-month time period in which to respond.

In order to satisfy the requirements of 35 U.S.C. 371(c)(4), on 16 October 2002, applicants filed the following papers:

1) a Response to Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) including a Petition under 37 CFR 1.47(a);

2) the $130 fee for filing the declaration after thirty months from the earliest priority date;

3) a declaration signed by the inventors.

On 16 April 2003, the USPTO mailed applicant a decision indicating that part of inventor Margaret Dymphna McGowan's name had been crossed through and "ANNE DYMPHNA" has been written above it. It was not clear when these changes were made or by whom since applicants failed to initial or date these changes.

On 16 June 2003, applicants filed the current response which included a new declaration indicating that the inventor's name is Margaret Anne Dymphna McGowan.

DISCUSSION

With respect to the change in Inventor McGowan's name, inventor McGowan must provide a petition under 37 CFR 1.182 indicating how the error occurred if she wants the name changed to Margaret Anne Dymphna McGowan. Otherwise, Ms. McGowan must provide a declaration signed by Margaret Dymphna McGowan.

CONCLUSION

For the reasons above, the declaration is **NOT ACCEPTED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Debra S. Brittingham
PCT Special Programs Examiner
PCT Legal Office

Richard Cole
PCT Legal Examiner
PCT Legal Office

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Telephone: (703) 308-3401
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16 MAR 2004

#12

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Devin R. Jensen
Myers, Bigel, Sibley & Sajovec
P.O. Box 37428
Raleigh, NC 27627

In re Application of :
McGowen, et.al. :
Application No.: 10/149,799 :
PCT No.: PCT/GB00/04760 :
Int. Filing Date: 13 December 2000 : DECISION
Priority Date: 13 December 1999 :
Attorney's Docket No.: 9052-124 :
For: PREPARATION OF METALLOCENES :
CARRYING A CYCLOPENT ADIENE COMPRISING :
A BASIC DONOR GROUP :

:

This is a decision on applicant's "PETITION UNDER 37 C.F.R. 1.182 TO CORRECT INVENTOR'S NAME" filed on 04 December 2003 requesting that inventor Margaret Dymphna McGowan's name be corrected. The $130 petition fee has been received.

BACKGROUND

On 13 December 2000, applicants filed international application PCT/GB00/04760 which claimed priority to a British application. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 14 June 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 12 July 2001 prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 13 June 2002.

On 13 June 2002, applicants filed a letter for entry into the national stage in the United States which was accompanied by a copy of the international application, a copy of the written opinion and the response thereto, a copy of the international preliminary examination report, an information disclosure statement, a preliminary amendment, extra

claim fees of $306 and the basic national fee of $890 as required by 35 U.S.C. 371(c). These papers were assigned application number 10/149,799.

On 26 August 2002, the United States Patent and Trademark Office (USPTO) in its capacity as an Elected Office mailed the "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) indicating that applicant was required to file an oath/declaration and the $130 surcharge for filing the oath/declaration after thirty months from the priority date. The notification set a two-month time period in which to respond.

In order to satisfy the requirements of 35 U.S.C. 371(c)(4), on 16 October 2002, applicants filed a Response to Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) including a Petition under 37 CFR 1.47(a); the $130 fee for filing the declaration after thirty months from the earliest priority date; and, a declaration signed by the inventors.

On 05 August 2003, the USPTO mailed applicant a decision on petition indicating that part of inventor Margaret Dymphna McGowan's name had been crossed through and "ANNE DYMPHNA" had been written above it. It was not clear when those changes were made or by whom since applicants failed to initial or date those changes.

On 04 December 2003, applicant filed the current response which included a petition to correct inventor McGowen's name, the $130 petition fee, a declaration by inventor McGowan indicating that her name was incorrect and that this error occurred without deceptive intent and a new declaration signed by inventor McGowan.

DISCUSSION

Inventor Margaret Anne Dymphna McGowen has submitted both a declaration stating that the error in her name occurred without any deceptive intent and a new declaration indicating her correct name. Therefore, the petition is granted

CONCLUSION

For the reasons above, the petition is **GRANTED**, and the declaration is **ACCEPTED**.

The application is being returned to the United States Designated/Elected Office for processing in accordance with this decision; and, if appropriate, a Notification of Acceptance of Application (Form PCT/DO/EO/903) will be mailed showing a 35 U.S.C. 371 date of 16 October 2002.

Debra S. Brittingham
PCT Special Programs Examiner
PCT Legal Office

Boris Milef
PCT Legal Examiner
PCT Legal Office

DSB/BM:dsb
Telephone: (703) 308-3401
Facsimile: (703) 308-6459

OIPE IAP64 NOV 17 2005 PATENT & TRADEMARK OFFICE

CERTIFICATE OF MAILING
I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE WITH SUFFICIENT POSTAGE AS FIRST-CLASS MAIL WITH SUFFICIENT POSTAGE IN AN ENVELOPE ADDRESSED TO: COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450,
ON November 15, 2005
Arlene E Corona
Signature of person depositing this document
15 Nov 05
Date

Attorney Docket No. P32490

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Bambal, et al.	November 15, 2005
Serial No.:	10/149,804	Group Art Unit No.: 1651
Filed:	September 11, 2002	Examiner: S. Saucier
For:	ENZYME SUBSTRATE	

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

PETITION UNDER 37 CFR 1.181

1. Applicants hereby petition to withdraw the holding of abandonment of United States Patent Application No. 10/149,804 and to have the application reinstated as a pending application.

2. I hereby state:

(a) I am an attorney of record in the above-referenced application.

(b) On November 14, 2005, a Notice of Abandonment was received in the above-referenced application. The Notice indicated that the reason for abandonment was Applicants' failure to send a proper reply to the Office letter mailed 31 March 2005.

(c) On June 28, 2005 a response to the non-final office action along with an IDS was mailed to the USPTO.

(d) I searched our file for United States Patent Application 10/149,804 and found that it contains copies of the response to the non-final office action, Information Disclosure Statement, Form PTO 1449 and a stamped returned post card indicating timely receipt of the aforementioned by the Patent and Trademark Office. In view of all the information available to me, I have concluded that the proper response was timely filed and received in normal course by the Patent and Trademark Office.

3. I enclose the following,

i) A copy of the response to the non-final office action filed on 28 June 2005, and ii) a copy of the returned receipt post card stamped by the United States Patent and Trademark Office.

4. I hereby certify that the above enclosures are true copies as currently in my file of the subject application and on record in my department.

5. In consideration of these submissions and the fact that a timely proper response was filed and received by the Office, it is respectfully requested that the holding of abandonment of United States Patent Application No. 10/149,804 be withdrawn and that the application be reinstated as a pending application.

6. No fee is required for submitting the subject petition. However, if any fee is necessary, authorization is hereby given to charge the amount of such fee to Deposit Account No. 19-2570.

Should the Examiner have any questions or wish to discuss any aspect of this case, the Examiner is encouraged to call the undersigned attorney at the number indicated below.

Respectfully submitted,

Loretta J. Sauermelch

Loretta J. (Henderson) Sauermelch
Attorney for Applicants
Registration No. 37,347

GLAXOSMITHKLINE
Corporate Intellectual Property - UW2220
P.O. Box 1539
King of Prussia, PA 19406-0939
Phone (610) 270-6897
Facsimile (610) 270-5090
email: loretta.j.henderson@gsk.com
n:\Loretta\application\p3's\p32490\amend1.doc

OIPE IAP84
NOV 17 2005
PATENT & TRADEMARK OFFICE

DOCKET No. P32490 Date Mailed 6-28-05 Atty/Secy LJ - Trudy

MAILING: CERTIFICATE/ EXPRESS MAIL # _____

U.S. Serial No. .: 10/149,804 Filing Date: 9-11-02

Int'l App. No.: _____ Int'l Filing Date: _____

OIPE JC04
JUN 30 2005
PATENT & TRADEMARK OFFICE

RECEIPT IS ACKNOWLEDGED FOR THE FOLLOWING:

- ☐ Application Transmittal for:
  - ☐ Provisional ☐ Utility/Continuation or ☐ CPA
  - ☐ Dec. & Power of Atty ___ pages ( )
  - ☐ Specification ____ pages ☐ Abstract ___ pgs
- ☐ Drawings ____ Sheet(s)/Figs____ to ____
- ☐ Assignment ___ pages & Recordation Cover Sheet
- ☒ Information Disclosure Statement
- ☒ PTO-1449 9 References (enclosed)
- ☒ Amendment /Response 7 pages
- ☐ Petition for Extension of Time plus 2 copies
- ☐ Affidavit / Declaration ____ pages
- ☐ Copy of Notice to File Missing Parts
- ☐ Copy of Notice to Comply
- ☒ Authorization to Charge Dep. Acct. # 19-2570
- ☐ _____
- ☐ Statement to Support Filing
- ☐ Diskette
- ☐ Notice of Appeal
- ☐ Appeal Brief ___ pages
- ☐ Petition ___ p
- ☐ Status Request
- ☐ Issue Fee Trans. (P
- ☐ Priority Document
- ☐ Trans. Ltr Natl Stage Entry
- ☐ Nat'l Stage (2nd sub)
- ☐ Req. to Correct Filing Recpt
- ☐ Copy of Filing Receipt
- ☐ Resp. to Written Opinion
- ☐ Correct Defects ___ pages

GlaxoSmithKline
Corporate Intellectual
Property-U.S. (UW2220)
709 Swedeland Road
King of Prussia, PA 19406

Lourdes I. Henderson, Esq.

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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SMITHKLINE BEECHAM CORPORATION
CORPORATE INTELLECTUAL PROPERTY-US
UW2220
PO BOX 1539
KING OF PRUSSIA PA 19406-0939

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JAN 23 2006

OFFICE OF PETITIONS

In re Application of :
Bambal, et al. :
Application No. 10/149,804 : ON PETITION
Filed: September 11, 2002 :
Attorney Docket No. P32490 :

This is a decision on the "PETITION UNDER 37 CFR 1.181", filed November 17, 2005, to withdraw the holding of abandonment of the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely reply to the non-final Office action mailed March 31, 2005. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the above identified application became abandoned on July 1, 2005. A Notice of Abandonment was mailed on November 8, 2005.

Petitioner contends that he did timely file a reply to the March 31, 2005 Office action. In support, petitioner has included a copy of a properly itemized, USPTO date-stamped postcard receipt, showing that an "Amendment/Response 7 pages" was filed on June 30, 2005.

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

In view thereof, **THE HOLDING OF ABANDONMENT IS WITHDRAWN.**

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

The application file is being forwarded to Group Art Unit 1651 for consideration of the Amendment filed June 30, 2005 (copy supplied on petition filed November 17, 2005).

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

Cliff Congo
Petitions Attorney
Office of Petitions

23 [illegible] 2003

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

KENYON & KENYON
One Broadway
New York, New York 10004

In re Application of:	:	
SCHMITT, Patrick, et al.	:	DECISION ON PETITION TO
U.S. Application No.: 10/149,824	:	REVIVE ABANDONED
PCT No.: PCT/DE00/02344	:	APPLICATION UNDER 37
International Filing Date: 14 July 2000	:	CFR 1.137(b)
Priority Date: 17 July 1999	:	
Attorney's Docket No.: 10191/2461	:	
For: LIGHT-SENSITIVE SENSOR UNIT,	:	
ESPECIALLY FOR AUTOMATIC SWITCHING	:	
OF ILLUMINATION EQUIPMENT	:	

The petition to revive under 37 CFR 1.137(b) filed 07 June 2002 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in filing the request to enter the national phase from the due date of January 17, 2002, until the filing of this petition was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

Applicants have now submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Missing Requirements indicating that an executed oath or declaration and the surcharge for filing the oath or declaration later than thirty months after the priority date are required.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

21 OCT 2003

#9

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Jeffrey S. Kubinec
GENENTECH, Inc.
1 DNA Way
South San Francisco, CA 94080-4990

In re Application of :
DENNIS et al. :
Application No.: 10/149,835 :
PCT No.: PCT/US00/35325 :
Int. Filing Date: 22 December 2000 :
Priority Date: 23 December 1999 : DECISION
Attorney Docket No.: P1774R1 :
For: METHODS AND COMPOSITIONS :
FOR PROLONGING ELIMINATION HALF:
-TIMES OF BIOACTIVE COMPOUNDS :

This decision is in response to applicant's Petition under 37 CFR 1.181 to Withdraw Holding of Abandonment or in the Alternative, Petition under 37 CFR 1.137(a) or (b) to Revive Application, filed in the United States Patent and Trademark Office (USPTO) on 14 August 2003.

BACKGROUND

On 14 June 2002, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee, a computer readable form of the sequence listing and an executed declaration.

On 09 September 2002, a Notification of Missing Requirements (FORM PCT/DO/EO/905) was mailed to applicant indicating that an oath or declaration in compliance with 37 CFR 1.497 was required. Applicants were also advised that the nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 CFR 1.821-1.825. Applicant was required to provide an initial or substitute paper copy or compact disc of the "Sequence Listing", as well as an amendment directing its entry into the specification, within two months of the mail date, with extensions of time available under 37 CFR 1.136(a).

On 10 March 2003, applicant responded to the Form 905 along with the Sequence listing (paper copy and diskette), preliminary amendment and a petition for a four month extension of time. Thereafter on 30 July 2003, a Notification of Abandonment was inadvertently mailed to applicant, which incorrectly stated the reason for the abandonment was that the reply received to the Notification mailed on 14 June 2002 was untimely.

On 14 August 2003, applicants filed a Petition to Withdraw the Abandonment or in the alternative, a Petition to Revive under 37 CFR 1.137(a) or (b) accompanied by, *inter alia*, copies of the 10 March 2003 filings and the USPTO date-stamped postcard receipt providing evidence of the submission.

DISCUSSION

A review of the application file reveals that no Office Action was mailed on 14 June 2002. Applicant's response to the 905 including a paper and computer readable diskette was filed on 10 March 2003 along with a request for a four month extension of time, which is granted. The Raw Sequence Listing was entered on 30 June 2003. All of the 35 U.S.C. 371 requirements have been met.

The Notification of Abandonment was erroneously issued on 30 July 2003 and will be **VACATED**.

CONCLUSION

For the reasons set forth above, the Notification of Abandonment mailed 30 July 2003 is hereby **VACATED**. Applicant's petition to withdraw the holding of abandonment is Granted. The petition to revive under 37 CFR 1.137(a) & (b) is considered **MOOT**.

This application is being forwarded to the United States Designated/Elected Office for further processing in accordance with this decision. The 35 U.S.C. 371 date is **14 June 2002.**

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Leslie B. Overman
4350 La Jolla Village Drive
San Diego, CA 92122

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OCT 3 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Mark S. Dennis, et al.	:	
Application No. 10/149,835	:	DECISION ON PETITION
Filed: June 14, 2002	:	TO WITHDRAW
Attorney Docket No. 06-14-2002	:	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 October 1, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates that Leslie B. Overman 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 below-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Ginger R. Dreger**
Heller Ehrman LLP
275 Middlefield Road
Menlo Park, CA 94025

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

Mail Date: 04/30/2010

Applicant	: Mark S Dennis	: DECISION ON REQUEST FOR
Patent Number	: 7608681	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/149,835	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/14/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2114** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 1-10-09 Paper No.: _____

TO SPE OF : ART UNIT 1635

SUBJECT : Request for Certificate of Correction for Appl. No.: 10149869 Patent No.: 7303867

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

Valerie Jackson
Certificates of Correction Branch
703-308-9390 ext. 114

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: _____

_____

_____

_____

_____

Tracy Vivlemore 1635
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI OH 45224

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JAN 10 2006

OFFICE OF PETITIONS

In re Application of :
Curro et al. : DECISION GRANTING PETITION
Application No. 10/149,878 :
Filed: June 14, 2002 :
Attorney Docket No. 7897R2 :

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

This application became abandoned on July 23, 2005, for failure to pay the issue and publication fees as required by the Notice of Allowance and Fee(s) Due mailed on April 22, 2005, which set a three (3) month statutory period for reply.

Petitioner has met the requirements under 37 CFR 1.137(b). Accordingly, the petition is granted.

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

Telephone inquiries concerning the issuance of the application into a patent should be directed to the Office of Patent Publication, Customer Service at (703) 305-8497.

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

Christina 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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Christopher J. Reckamp
Vedder, Price, Kaufman & Kammholz, P.C.
222 N. LaSalle Street
Chicago, IL 60601

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JUL 21 2005

OFFICE OF PETITIONS

In re Patent No. 6,804,107	:	
Issue Date: October 12, 2004	:	
Application No. 10/149,885	:	ON PETITION
Filed: October 16, 2002	:	
Attorney Docket No. 34420.00.0006	:	

This is a decision on the petition filed March 28, 2005, which is being treated as a petition under 37 CFR 3.81[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted**.

As authorized, the $130 petition fee has been charged to petitioner's deposit account.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226. Questions concerning the Certificate of Correction may be directed to the Certificates of Correction Branch at (703) 305-8309.

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

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

10 APR 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Anthony J. Zelano
Millen, White, Zelano & Branigan, P.C.
Arlington Courthouse Plaza 1, Suite 1400
2200 Clarendon Boulevard
Arlington, VA 22201

In re Application of	:	
MIWA, et al.	:	
Application No.: 10/149,917	:	DECISION ON PETITION
PCT No.: PCT/EP99/09959	:	
Int. Filing Date: 15 December 1999	:	UNDER 37 CFR 1.55(c)
Priority Date: None	:	
Attorney Docket No.: SCH 1899	:	
For: NEAR INFRARED FLUORESCENT CONTRAST AGENT AND FLUORESCENCE IMAGING	:	

This decision is in response to applicant's "Petition to Accept Delayed Claim For Priority Under 35 USC 119 And 37 C.F.R. § 1.55(c)" filed 08 May 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 15 December 1999, applicant filed international application PCT/EP99/09959 designating the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 21 June 2001. A demand for international preliminary examination was filed on 11 June 2001. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 17 June 2002 as 15 June2002 was a Saturday.

On 17 June 2002, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1).

On 19 August 2002, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an executed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International Application number and international filing date. In addition, applicant was advised of the need to furnish a computer readable version of the sequence listing. Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 17 October 2002, applicant responded with an executed declaration of the inventors

and payment of the surcharge.

On 28 March 2003, applicant was mailed a "Notification of Acceptance" (Form PCT/DO/EO/903) indicating a 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4) date of 17 October 2002.

On 30 May 2006, applicant filed the present petition to accept a delayed claim for priority.

DISCUSSION

The present application is a U.S. National stage application of international application PCT/EP99/09959 filed 15 December 1999. The petition procedure under 37 CFR 1.55(c) to accept a delayed claim for foreign priority does not apply to applications filed prior to 29 November 2000. (See 37 CFR 1.55(a)) Furthermore, the provisions of § 1.55(c) do not provide an avenue to accept a delayed claim of foreign priority in a U.S. National phase application. Note that § 1.55(c) does not include priority claim under 35 U.S.C. 365(b).

Accordingly, the petition under 37 CFR 1.55(c) is **dismissed as moot**.

Please note that foreign priority in an application filed under 35 U.S.C. 371 is governed by 35 U.S.C. 365(b)

35 USC 365 states:

(b) In accordance with the conditions and requirements of section 119(a) of this title and the treaty and the Regulations, an international application designating the United States shall be entitled to the right of priority based on a prior foreign application, or a prior international application designating at least one country other than the United States.

As can be seen above, 35 USC 365(b) requires that an applicant comply with conditions and requirements of the Patent Cooperation Treaty and regulations in order to receive the benefit of a foreign priority application. The claim to priority to JP 10/283301 does not comply with PCT Rule 4.10. Accordingly, applicant is not entitled to claim priority to the Japanese application.

CONCLUSION

For the reasons detailed above, applicant's petition under 37 CFR 1.55(c) is **DISMISSED as moot**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision.

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Any questions concerning this matter may be directed to the Derek Putonen at (571) 272-3294.

Boris Milef
Senior Legal Examiner
Office of PCT Legal Administration

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/26/09

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction for Appl. No.: 10149917 Patent No.: 7547721

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome

Certificates of Correction Branch

703-756-1574

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

_____

_____

_____

/Janet L. Andres/ 1625

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

EDWARDS & ANGELL LLP
P O BOX 55874
BOSTON, MA 02205

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DEC 0 7 2006

OFFICE OF PETITIONS

In re Application of	:	
Kiyomi Tsuruda et al	:	
Application No. 10/149,942	:	DECISION ON PETITION
Filed: June 14, 2002	:	UNDER 37 CFR 1.313(c)(3)
Attorney Docket No. 57426	:	

This is a decision on the petition, filed December 5, 2006, 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**.

Petitioner requests that the above-identified application be withdrawn from issue for express abandonment in favor of a continuation application stated to have been filed of even date.

The petition complies with the requirements of 37 CFR 1.313(c)(3). Accordingly, the application is hereby withdrawn from issue, and the abandonment is hereby recognized.

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

Frances Hicks
Petitions Examiner
Office of Petitions

0 8 DEC 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

Akerman Senterfitt
222 Lakeview Avenue, Suite 400
Post Office Box 3188
West Palm Beach, FL 33402-3188

In re Application of
BIERMANN et al.
Application No.: 10/149,946
PCT No.: PCT/NL02/00052
Int. Filing Date: 23 January 2002
Priority Date: 26 January 2001
Attorney Docket No.: 6900-15
For: A METHOD FOR THE REMOVAL OF MERCURY FROM A GAS STREAM

DECISION ON SUBMISSION

This application is before the PCT Legal Office for consideration of matters arising under 35 U.S.C. 371.

On 12 June 2002, applicants filed a transmittal letter concerning a filing under 35 U.S.C. 371 directed to PCT/NL02/00052, accompanied by, *inter alia*, the basic national fee.

On 07 October 2002, a Notification of Missing Requirements was mailed indicating that an oath or declaration was not executed in accordance with 37 CFR 1.66 or 1.68. On 22 October 2002, applicants submitted an executed declaration, which was directed to international application PCT/NL02/00659, rather than PCT/NL02/00052.

On 04 February 2003, a Notice of Acceptance was erroneously issued indicating that the requirements of 35 U.S.C. 371 were met on 22 October 2002. The 04 February 2003 Notice of Acceptance was issued in error and is hereby **VACATED**.

The declaration of inventors submitted by applicants on 22 October 2002 is unacceptable because it was directed to the wrong international application. Applicants are required to submit a **newly executed** declaration, in compliance with 37 CFR 1.497(a) & (b) and directed to PCT/**NL02/00052**, within in TWO (2) months from the mail date of this decision.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Telephone: 571-272-3286
Facsimile: 571-273-0459

BEST AVAILABLE COPY

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/149,962

Paper No.: _____

DATE : 2/17/06

TO SPE OF : ART UNIT 1744

SUBJECT : Request for Certificate of Correction on Patent No.: 6936220

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:

Examiner appears to have marked the wrong boxes on the Bibsheet.

GLADYS P. CORCORAN
SUPERVISORY PATENT EXAMINER

_____ 1744 2/17/06
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

CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, D.C. 20044-4300

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FEB 09 2006

OFFICE OF PETITIONS

In re Application of :
Roberts, et al. :
Application No. 10/149,973 : ON PETITION
Filed: October 29, 2002 :
Attorney Docket No. 3036/51188 :

This is a decision on the petition under 37 CFR 1.181, filed January 25, 2006, to withdraw the holding of abandonment.

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. A "Notice of Informal or Non-Compliant Amendment" (Notice) was mailed March 21, 2005, which set a one (1) month period for response.[1] Accordingly, this application became abandoned on April 22, 2005.

Petitioner asserts the Notice was not received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See Withdrawing the Holding of Abandonment When Office Actions Are Not Received; Notice 1156 Off. Gaz. Pat. Office 53 (November 16, 1993).

The required statements and docket records have been submitted and considered.

The petition is granted.

The file is being forwarded to Technology Center 2600 for re-mailing of the March 21, 2005 "Notice of Informal or Non-Compliant Amendment" with a new period for response.

[1] It is noted that the Notice is not currently found in the application file, however, PALM data records indicate the Notice was mailed on the date as listed.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

James C. Lydon
Suite 100
100 Daingerfield Road
Alexandria, VA 22314

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MAR 1 4 2005

OFFICE OF PETITIONS

In re Application of :
Jean-Claude Couraud :
Application No. 10/149,977 : ON PETITION
Filed: June 17, 2002 :
Attorney Docket No. BONN-085 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 12, 2004, to revive the above-identified application.

The petition is **GRANTED**.

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

The application file is being referred to Technology Center 3700.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

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JUN 0 1 2004

OFFICE OF PETITIONS

In re Application of	:	
William Brown et al	:	
Application No. 10/149,982	:	ON PETITION
Filed: June 13, 2002	:	
Attorney Docket No. 7567/73361	:	

This is a decision on the petition, filed May 28, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on April 26, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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 1625 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070330

DATE : March 30, 2007

10/149986

TO SPE OF : ART UNIT 1761

SUBJECT : Request for Certificate of Correction on Patent No.: 3-8-07

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

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

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

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

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

☒ **Approved** **All** changes apply.

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

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

Comments:

MILTON I. CANO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

SPE: Milton Cano **Art Unit** 1761

Clerk 1761

UNITED STATES PATENT AND TRADEMARK OFFICE

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

David M. Saravitz
Alston & Bird LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-2200

In re Application of	:	
MERITET et al.	:	
Serial No.: 10/149,992	:	DECISION ON PETITION
PCT No.: PCT/GB00/04791	:	UNDER 37 CFR 1.181
Int. Filing Date: 13 December 2000	:	
Priority Date: 13 December 1999	:	
Atty. Docket No.: 046658/248867	:	
For: INTERFERON-ALPHA INDUCED GENE	:	

This decision is in response to applicants' "Petition Under 37 CFR 1.181 to Withdraw Holding of Abandonment in Accordance with MPEP 711.03(c) and 1156 O.G. 53" filed 07 December 2004. No petition fee is due.

BACKGROUND

On 13 December 2000, applicants filed international application PCT/GB00/04791 which claimed a priority date of 13 December 1999. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 14 June 2001. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 13 June 2002.

On 06 June 2002, applicants filed a transmittal for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; and a preliminary amendment.

On 06 September 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497(a) and (b). (The notification did not indicate that a Sequence Listing was required under 37 CFR 1.821(c) and (e).)

On 06 November 2002, applicants filed an executed declaration and an assignment.

On 18 March 2003, the United States Designated/Elected Office (DO/EO/US) mailed

Notification of Defective Response (Form PCT/DO/EO/916) indicating that a Sequence Listing had not been filed as required by 37 CFR 1.821(c) and (e).

On 27 March 2003, applicants filed a facsimile communication which included a paper copy of the sequence listing.

On 23 November 2004, the United States Designated/Elected Office (DO/EO/US) mailed NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a complete response to the Notification of Defective Response mailed 18 March 2003 within the time period set therein.

On 07 December 2004, applicants filed the present petition to withdraw the holding of abandonment.

DISCUSSION

The above-identified application was abandoned for failure to file a complete response to the Notification of Defective Response mailed 18 March 2003, in that, the sequence listing in computer readable form (CRF) had not been submitted within the period set therein. Applicants state in their present petition that a response to the Notification of Defective was filed via facsimile on 27 March 2003. According to USPTO records, the facsimile included a paper copy of the sequence listing.

37 CFR 1.821(e) states:

> A copy of the "Sequence Listing" referred to in paragraph (c) of this section must also be submitted in computer readable form in accordance with the requirements of § 1.824. The computer readable form is a copy of the "Sequence Listing" and will not necessarily be retained as a part of the patent application file. If the computer readable form of a new application is to be identical with the computer readable form of another application of the applicant on file in the Patent and Trademark Office, reference may be made to the other application and computer readable form in lieu of filing a duplicate computer readable form in the new application if the computer readable form in the other application was compliant with all of the requirements of these rules. The new application shall be accompanied by a letter making such reference to the other application and computer readable form, both of which shall be completely identified. In the new application, applicant must also request the use of the compliant computer readable "Sequence Listing" that is already on file for the other application and must state that the paper copy of the "Sequence Listing" in the new application is identical to the computer readable copy filed for the other application.

As stated above, the filing of the paper copy of the "Sequence Listing" does not satisfy the requirements of 37 CFR 1.825(e) and the application was abandoned for failure to respond to the Notification of Defective Response dated 23 March 2003. However, upon receipt of

the declaration dated 06 November 2002, the U.S. Patent and Trademark Office erroneously mailed a Notification of Defective Response indicating that a sequence listing in computer readable format (CRF) was still required. Instead, the Patent and Trademark Office should have mailed a second Notification of Missing Requirements indicating that the sequence listing in computer readable form was required. Since the Patent and Trademark Office erred in not mailing this form to applicant, the Notification of Abandonment was mailed in error and is hereby withdraw. Therefore, applicant petition to withdraw holding of abandonment is granted.

CONCLUSION

Therefore, the petition to withdraw holding of abandonment is **GRANTED** and the holding of Abandonment is withdrawn.

The Notification of Defective Response (Form PCT/DO/EO/916) mailed 18 March 2003 is **VACATED**.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that the sequence listing was not in compliance with 37 CFR 1.821-1.825 in that a copy of the "sequence listing" in computer readable form (CRF) has not been submitted as required by 37 CFR 1.821(e).

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3298
Facsimile: (571) 273-0459

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

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

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/149,993	6/11/2002	Tetsuya NARUSE	45108-04038

EXAMINER	
CHARLES CHOW	
ART UNIT	PAPER NUMBER
2618	051906

DATE MAILED:

Please find below a communication from the EXAMINER in charge of this application.

Commissioner of Patents.

DECISION ON PETITION UNDER 37 C.F.R. §1.97 FOR CONSIDERATION OF INFORMATION DISCLOSURE STATEMENT

The petition filed 3/30/2006 under 37 C.F.R. §1.97(d) for consideration of an information disclosure statement filed after [✓] Allowance [ ] Final has been:

[✓] GRANTED.

[ ] DENIED.

[ ] It was filed after payment of the issue fee, see 37 C.F.R. §1.97(d)(2).

The petition lacks:
[ ] The required fee under 37 C.F.R. §§1.97(d) and 1.17(i)(1).

[ ] A proper certification as specified in 37 C.F.R. §§1.97(d) and 1.97(e).

The information disclosure statement has been placed of record in the file but will not be considered by the 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.gov

NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

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OFFICE OF PETITIONS

In re Application of :
Yobas, et. al. : DECISION ON PETITION
Application No. 10/150,007 : TO WITHDRAW
Filed: May 20, 2002 : FROM RECORD
Attorney Docket No. 081787-7 :

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 19, 2006.

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

A review of the file record indicates that the power of attorney to the previous attorneys or agents of record 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 an outstanding Office action mailed January 12, 2006, that requires a reply from the applicant.

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

Telephone inquires concerning this decision should be directed to Andrea Smith at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee: David Bucci

cc: RATNERPRESTIA
P.O. BOX 980
VALLEY FORGE, PA 19482-0980

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Dec-05

EITAN, PEARL, LATZER & COHEN ZEDEK LLP
10 ROCKEFELLER PLAZA, SUITE 1001
NEW YORK NY 10020

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DEC 23 2005

OFFICE OF PETITIONS

In re Application of	:	
Meron et al.	:	
Application No. 10/150,019	:	DECISION ON PETITION
Filed: 20 May, 2002	:	
Atty Docket: P-4160-US	:	

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

The petition is **GRANTED**.

The application became abandoned on 23 July, 2005, for failure to timely respond to the final Office action mailed on 22 April, 2005, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were

---

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

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

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

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

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

obtained. The filing of the present petition precedes mailing of Notice of Abandonment.

Petitioner has filed a Request for Continued Examination (RCE) received on 16 November, 2005, and an amendment as the required submission.

The statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner **must** notify the Office if this is not a correct interpretation.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply.[2] The three-month extension request filed on 14 November, 2005, was submitted more than six (6) months after the mailing date of the Office action mailed on 22 April, 2005, and therefore is unnecessary. The extension of time fee paid on 14 November, 2005, will be credited to counsel's deposit account, No. 50-3355 as authorized.

This application is being referred to Technology Center 2600 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

---

[2] See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/27/06

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/150030** Patent No.: **6818450**

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 1624 Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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MAIL

JUN 7 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

ERICSSON INC.
6300 LEGACY DRIVE
M/S EVR C11
PLANO, TX 75024

In re Application of :
Georg Chambert :
Application No. 10/150,039 :
Filed: May 17, 2002 :
For: UNIVERSAL IDENTIFICATION SYSTEM FOR ACCESS POINTS OF WIRELESS ACCESS NETWORKS :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request to Withdraw as Attorney/Agent of record received April 14, 2005.

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

The Request to Withdraw as Attorney/Agent is **DISMISSED AS MOOT**.
Revocation/ Power of attorney filed April 15, 2005
All Attorneys/agents associated with Customer Number 23932 are withdrawn.
Attorney requesting withdraw is no longer of record.

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

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

CC:

JENKINS & GILCHRIST, PC
1445 ROSS AVENUE
SUITE 3200
DALLAS, TX 75202

UNITED STATES 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 30 2005

APPLIED BIOSYSTEMS
ATTN: BRIAN D. GILDEA, ESQ.
500 OLD CONNECTICUT PATH
FRAMINGHAM, MA 01710

In re Application of	:
Hyldig-Nielsen et al	:DECISION ON PETITION
Serial No. : 10/150,045	:
Filed : 17 May 2002	:
Attorney Dkt No. : BP0104-US	:

This is in response to the petition under 37 CFR 1.144 or 1.181 filed 22 July 2005, to request review of a restriction requirement.

BACKGROUND

A review of the file history shows that the application was filed on May 17, 2002 with 56 claims (claims 30-47) drawn to probes and kits and methods of detecting one or more species of *Candida*.

Examiner mailed a restriction requirement on September 4, 2003, in which claims 1-56 were divided in to two groups based on 35 U.S.C. 121, as follows:

> Group I, Claims 1-27, 43-56, drawn to probes and kits, classified in class 536, subclass 23.1
>
> Group II, Claims 28-42, drawn to methods of detecting one or more species of *Candida*, classified in class 435, subclass 6.

In addition, examiner indicated that claims 1 and 11 links inventions drawn to various combinations of probes including anywhere from one probe to comprising all 23 probes. Examiner argued that the claims encompass subject matter to the 23 probes individually, all possible combinations of 2 probes, 3 probes etc. which is a burden to search. Examiner indicated that the restriction requirement between the linked inventions is subject to the nonallowance of the linking claims 1 and 11 and that upon the allowance of the linking claims, the restriction requirement as to the linked inventions shall be withdrawn and any claims depending from or otherwise including all the limitations of the allowable linking claims will be entitled to examination in the instant application.

Examiner advised the applicants that if any such claims depending from or including all the limitations of the allowable linking claims is/are presented in a continuation or divisional application, the claims of the continuation or divisional application may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Examiner requested the applicant to select one SINGLE combination of probes for examination of either Group I or II and that the combination may be drawn to a single probe or a combination comprising all 23 possible probes. Examiner also indicated that the presence of one novel and nonobvious sequence within the combination will render the entire combination allowable and the combination will be searched until one nucleotide sequence is found to be allowable and that the order of searching will be chosen by the examiner to maximize the identification of an allowable sequence. If no individual nucleotide sequence is found to be allowable, the examiner indicated that she will consider whether the combination of sequences taken as a whole renders the claim allowable.

In response to the restriction requirement mailed 4 September 2003, Applicants traversed the restriction but elected a method of using the combination requiring all 23 probes on 23 September 2003, however no claim was presented limited to the elected invention.

On 12 December 2003, Examiner mailed a FAOM in which Examiner made the restriction FINAL and rejected claims 36, 38-41 under 35 U.S.C. 112, 2nd paragraph and rejected all pending claims 28-42 under 35 U.S.C. 103(a) as obvious under various references.

In response to the above FAOM, on June 23, 2004, applicants filed an amendment and argument in which applicant continued to traverse the restriction as well as the obviousness rejection.

On November 2, 2004 Examiner mailed a final rejection making the restriction FINAL as well as maintaining all the previous rejections under 35 U.S.C. 103(a).

In response to the final rejection, applicants filed a request for RCE on April 4, 2005 in which claims 1-27, 43-56 were cancelled, and claim 28 was amended.

In the action mailed 25 May 2005, the examiner indicated that the method requiring the combination of all 23 probes having SEQ ID NOs 1-23 would be in condition for allowance. All claims were objected to for encompassing non-elected subject matter. Applicants were given one month or thirty days from the 25 May 2005 mail date to cancel the noted subject matter or take other appropriate action (37 CFR 1.144). Applicants were informed that failure to take action during this period would be treated as authorization to cancel the noted claims by Examiner's amendment and pass the case to issue. Extensions of time under 37 CFR 1.136(a) would not be permitted since this application would be passed to issue.

On 22 July 2005, Applicants petitioned to review the requirement to restrict the claims to a method of using a single set of probes. The petition is timely filed under 37 CFR 1.181.

DISCUSSION

The application, file history and petition have been considered carefully.

Applicant raised several concerns in the petition.

(a) Applicants correctly point out that the restriction requirement is based upon 35 USC 121.

(b) Applicants are correct in stating the reasons for distinction between the probes having SEQ ID NOs 1-23: they are considered to be unrelated since each of the claimed sequences are structurally and functionally distinct from each other. Furthermore, there is nothing on the record to indicate that the sequences are obvious variants of each other. Applicants suggest that the search would not be a burden because all of the inventions are classified in Class 536, subclass 24.32 and Class 435, subclass 6. MPEP 808.02(C) points to a different field of search as grounds for establishing burden if restriction is to be required. It is noted that the literature and sequence database search is more pertinent than class and subclass searches for inventions claimed by polypeptide or polynucleotide sequences. Furthermore, it is unlikely that applicants would accept prior art obtained by a search for one sequence in a rejection over a second sequence.

(c) Applicants are correct that the Office must follow statute and judicial precedent.

(d) Applicants point to *In re Weber*, 580 F.2d, 455, 459, 198 USPQ 328 (CCPA 1978) to argue that the restriction requirement was improper and point to the following text in MPEP 803.02.

> Since the decisions in *In re Weber*, 580 F.2d 455, 198 USPQ 328 (CCPA 1978) and *In re Haas*, 580 F.2d 461, 198 USPQ 334 (CCPA 1978), it is improper for the Office to refuse to examine that which applicants regard as their invention, unless the subject matter in a claim lacks unity of invention. *In re Harnisch*, 631 F.2d 716, 206 USPQ 300 (CCPA 1980); and *Ex parte Hozumi*, 3 USPQ2d 1059 (Bd. Pat. App. & Int. 1984). Broadly, unity of invention exists where compounds included within a Markush group (1) share a common utility, and (2) share a substantial structural feature disclosed as being essential to that utility.

(e) Applicants argue that it is acceptable for a Markush-type claim to have independent and distinct inventions and that the examiner should have set forth an election of species and not a restriction requirement.

(f) Applicants also point to *In re Harnisch* and MPEP 2173.05(h) to argue that the proper test for whether SEQ ID NOs 1-23 are distinct is whether they share a common utility. Applicants state that the PNA probes are all useful for detecting *Candida*.

Before addressing the concerns (d), (e) and (f) of the petition, it is noted that no claims are currently pending which are limited to the elected inventions. Claim 28 is set forth below as a representative independent claim under examination.

28. (Currently Amended) A method comprising:

a) contacting a sample with one or more PNA probes ~~of 18 or fewer PNA subunits~~, wherein each of the one or more PNA probes consists of ~~comprises a~~ probing nucleobase sequence that is ~~at least ninety percent homologous to the nucleobase sequences, or their complements,~~ selected from the group consisting of:

AGA-GAG-CAG-CAT-GCA (Seq. Id. No. 1), AGA-GAG-CAA-CAT-GCA (Seq. Id. No. 2), ACA-GCA-GAA-GCC-GTG (Seq. Id. No. 3), CAT-AAA-TGG-CTA-CCA-GA (Seq. Id. No. 4), CAT-AAA-TGG-CTA-CCC-AG (Seq. Id. No. 5), ACT-TGG-AGT-CGA-TAG (Seq. Id. No. 6), CCA-AGG-CTT-ATA-CTC-GC (Seq. Id. No. 7), CCC-CTG-AAT-CGG-GAT (Seq. Id. No. 8), GAC-GCC-AAA-GAC-GCC (Seq. Id. No. 9), ATC-GTC-AGA-GGC-TAT-AA (Seq. Id. No. 10), TAG-CCA-GAA-GAA-AGG (Seq. Id. No. 11), CAT-AAA-TGG-CTA-GCC-AG (Seq. Id. No. 12), CTC-CGA-TGT-GAC-TGC-G (Seq. Id. No. 13), TCC-CAG-ACT-GCT-CGG (Seq. Id. No. 14), TCC-AAG-AGG-TCG-AGA (Seq. Id. No. 15), GCC-AAG-CCA-CAA-GGA (Seq. Id. No. 16), GCC-GCC-AAG-CCA-CA (Seq. Id. No. 17), GGA-CTT-GGG-GTT-AG (Seq. Id. No. 18), CCG-GGT-GCA-TTC-CA (Seq. Id. No. 19), ATG-TAG-AAC-CGA-ACT-A (Seq. Id. No. 20), GAT-TCT-CGG-CCC-CAT-G (Seq. Id. No. 21), CTG-GTT-CGC-CAA-AAA-G (Seq. Id. No. 22) and AGT-ACG-CAT-CAG-AAA (Seq. Id. No. 23), or the complements thereof; and

b) detecting, identifying and/or quantitating hybridization of the probing nucleobase sequence of a PNA probe to the target sequence of one or more

species of Candida yeast in the sample, under suitable hybridization conditions or suitable *in-situ* hybridization conditions, and correlating the result with the presence, absence and/or quantity of Candida yeast in the sample.

A comparison of SEQ ID NOs 1, 5 and 10 shows no indication of any significant structural similarity.

<400> 1
agagaccagc atgca

<400> 5
cataaatggc tacccag

<400> 10
atcgtcagag gctataa

MPEP 2175.03(h) states in part that:

> The materials set forth in the Markush group ordinarily must belong to a recognized physical or chemical class or to an art-recognized class. However, when the Markush group occurs in a claim reciting a process or a combination (not a single compound), it is sufficient if the members of the group are disclosed in the specification to possess at least one property in common which is mainly responsible for their function in the claimed relationship, and it is clear from their very nature or from the prior art that all of them possess this property.

For process and combination claims, the Markush group may include members which share a common property mainly responsible for their function in the claimed relationship. It is not clear from the alignment of SEQ ID NOs 1, 5 and 10, what property, is any, that they share which is mainly responsible for their function.

Moreover, on page 19 of the specification, the Table illustrates that many of these different sequences are drawn to different species. Thus, SEQ ID NO: 1 which may be used to detect *C. albicans* would not be interchangeable with SEQ ID NO: 23 which may be used to detect *C. tropicalis*. The methods of using each probe or each set of probes cannot be substituted one for another to obtain the same effect.

MPEP 808 sets forth reasons for insisting upon restriction:

> Every requirement to restrict has two aspects: (A) the reasons (as distinguished from the mere statement of conclusion) why the inventions *as claimed* are either independent or distinct; and (B) the reasons for insisting upon restriction there between as set forth in the following sections.

The arguments appear to be directed to the elected invention, a method of detecting using a set of probes comprising SEQ ID NOs 1-23. These arguments are not commensurate with the invention *as claimed*. MPEP 808 explains that it is the invention, *as claimed*, which is considered for distinctness or independence. It is noted that the invention *as claimed* does not require all SEQ ID NO 1-23. Claim 28 encompasses the use of individual probes and sets of probes which do not require all of SEQ ID NOs 1-23. For these reasons, the arguments are not persuasive.

MPEP 803.04 explains how claims directed to polynucleotide sequences claimed both individually and in sets will be restricted and examined.[1] The instant claims recite both individual sequences (Example A: a method of using a probe comprising SEQ ID No 1), sets (Example B: method of using a probe comprising SEQ ID NOs 1 and 2) and ranges of sets (Example C: method of using a probe comprising any two selected from the group consisting of SEQ ID NOs 1-23, which reads upon using SEQ ID NOs 1 and 3, SEQ ID NOs 1 and 5, SEQ ID NOs 1-23 inclusive, etc.) MPEP 803.04 states that after restriction,

> Based upon the finding of allowable sequences, claims limited to the allowable sequences as in example (A), all combinations, such as in examples (B) and (C), containing the allowable sequences and any patentably indistinct sequences will be rejoined and allowed.
>
> Rejoinder will be permitted for claims requiring any allowable sequence(s). Any claims which have been restricted and nonselected and which are limited to the allowable sequence(s) will be rejoined and examined.

At this point, because applicants have elected the methods of using a set of PNA probes which requires all of SEQ ID NOs 1-23, and because the examiner has indicated this invention as free of the prior art and otherwise in condition for allowance, applicants must amend their claims to include at least one claim limited to the elected invention in order for the claim objections to be withdrawn and for a claim to be placed in condition for allowance. Applicants may also pursue generic linking claims which encompass all the features of the elected invention and should any of those become allowable, applicant may be entitled to rejoinder under MPEP 809 of any claims which require all the features of an allowable linking claim. For the instant invention, a linking claim may be drafted in the format of Claim 28, in which the list of alternative sequences in claim 28(a) is deleted.

---

[1] It is noted that the partial waiver of restriction for ten sequences discussed in 803.04 pertains only to product inventions comprising polynucleotide sequences and does not apply to process inventions, such as the method of using PNA probes.

Additionally, upon indication of an allowable claim, applicants may include claims which require all the features of the allowable inventions. But at this time, no claim is of proper format for allowability, in view of the objection for encompassing non-elected subject matter in the alternative.

DECISION

For these reasons, the petition to withdraw the restriction requirement is **DENIED**.

Any request for consideration must be filed within two (2) months of the mailing date of this decision.

The application will be forwarded to the examiner to consider the RCE and response filed on 26 July 2005 and to prepare an action which is consistent with this petition decision.

Should there be any questions regarding this decision, please contact Special Program Examiner Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 571-273-8300.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/150,045	05/17/2002	Jens J. Hyldig-Nielsen	BP0104-US	1945

23544 7590 02/08/2006

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GOLDBERG, JEANINE ANNE	
ART UNIT	**PAPER NUMBER**
1634	

DATE MAILED: 02/08/2006

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

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FEB - 8 2006

BRIAN D. GILDEA, ESQ.
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In re Application of	:
Hyldig-Nielsen et al	:
Serial No.: 10/150,045	: DECISION ON PETITION
Filed: 17 May 2002	:
Attorney Docket No.: BP0104-US	:

This letter is in response to the renewed Petition under 37 C.F.R. 1.144 and 1.181, filed 27 October 2005, requesting reconsideration of the Petition Decision of 30 August 2005, denying the first Petition requesting withdrawal of the restriction requirement to a single set of nucleotide probes.

BACKGROUND

A review of the file history shows that this application was filed on 17 May 2002 with 56 claims drawn to nucleic acid probes and kits and methods of detecting one or more species of *Candida* yeast.

The examiner mailed a restriction requirement to applicants on 04 September 2003, in which claims 1 - 56 were divided into two group based on 35 U.S.C. 121, as follows:

Group I, claims 1 - 27 and 43 - 56, drawn to probes and kits, classified in class 536, subclass 23.1; and

Group II, claims 28 - 42, drawn to methods of detecting one or more species of *Candida*, classified in class 435, subclass 6.

In addition, the examiner indicated that claims 1 and 11 link inventions drawn to various combinations of probes including anywhere from one probe to comprising all 23 probes. Examiner reasoned that the claims encompassed subject matter to the 23 probes individually, all possible combination of 2 probes, 3 probes, etc. which would be a burden to search. The examiner indicated that the restriction requirement between the linked inventions is subject to the nonallowance of linking claims 1 and 11 and that upon the allowance of the linking claims, the restriction requirement as to the linked inventions would be withdrawn and any claims depending from or otherwise including all the limitations of the allowable linking claims would

be entitled to examination on the merits in this application. The examiner advised applicants that if any such claims depending from or including all the limitations of the allowable linking claims were to be presented in a continuation or divisional application they may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

The examiner further requested applicants to select one SINGLE combination of probes for examination in either Group I or II and that the combination may be drawn to a single probe or a combination comprising up to all 23 possible probes. The examiner also indicated that the presence of one novel and non-obvious sequence within the combination would render the entire combination allowable and that the combinations would be searched until one nucleotide sequence is found to be allowable and that the order of searching would be chosen by the examiner to maximize the likelihood of finding of an allowable sequence. If no individual nucleotide sequence were found to be allowable the examiner indicated that she would consider whether the combination of sequences taken as a whole would render the claim allowable.

In response to the restriction requirement mailed to applicants, applicants traversed the requirement but elected Group II, claims 28-42, a method of using the combination requiring all 23 probes on 23 September 2003; however no claim was presented which was limited to the elected invention.

On 12 December 2003, the examiner mailed an Office action to applicants in which the examiner made the restriction FINAL and rejected claims 36, 38 - 41 under 35 U.S.C. 112, second paragraph, and rejected all pending claims 28 - 42 under 35 U.S.C. 103(a) as obvious over various references.

In response to the above, on 23 June 2004, applicants filed an amendment and argument in which applicants continued to traverse the restriction requirement as well as the obviousness rejection.

On 02 November 2004, the examiner mailed to applicants a Final Office action making the restriction FINAL as well as maintaining all of the previous rejections under 35 U.S.C. 103(a).

In response to the final Office action, applicants filed RCE papers on 04 April 2005 with an amendment in which claims 1 - 27 and 43 - 56 were cancelled, and claim 28 was amended.

In a new Office action mailed 25 May 2005, the examiner indicated that the elected method requiring the combination of all 23 probes having SEQ ID Nos. 1-23 was considered allowable. All claims were, however, objected to for encompassing non-elected subject matter. Applicants were given one month or thirty days (which ever was longer) to cancel the nonelected subject matter or take other appropriate action (37 C.F.R. 1.144). Applicants were informed that failure to take action during this period would be treated as authorization to cancel the nonelected subject matter by Examiner's amendment and pass the case to issue. Extensions of time under 37 C.F.R. 1.136(a) were not be permitted since the application would be passed to issue.

On 22 July 2005, applicants petitioned for review of the requirement to restrict the claims to a method of using a single set of probes. The petition was timely filed under 37 C.F.R. 1.181. Applicants also filed a new set of RCE papers with the petition.

A Petition Decision denying applicants' request was mailed to applicants on 30 August 2005. The examiner mailed a new Office action to applicants, identical to the previous Office action, by applicants' request on 6 October 2005, again setting a one month time period for reply.

On 27 October 2005 applicants filed this renewed petition under 37 C.F.R. 1. 181 requesting that the Director of the United States Patent and Trademark Office review the previous Petition Decision.

DISCUSSION

The application, file history and petition have been considered carefully.

Applicants' position is well summarized on page 3, second paragraph, last two sentences of their renewed petition:

> "Applicants maintain that the requirements deemed necessary by the Office to put the application in condition for allowance (and the Office's related refusal to consider Applicant's claims on their merits) conflict with applicants' right to claim his invention in the manner they deem appropriate under 35 U.S.C 112, first paragraph. Thus, it is believed that the restriction requirement and related objection are improper and should be withdrawn."

Applicant's support their position by three main arguments.

(1)(a) Applicants Argue That the Restriction Controversy is Resolved by *In re Weber*

Applicants argue that a proper application of *In re Weber, 580 F.2d.455, 198 USPQ 328 (CCPA)* would fully resolve the instant restriction requirement problem because Weber clearly teaches that any restriction within a single claim is improper because it prevents applicant from ever having the claim fully examined on the merits. Applicants further argue that the examiner should have required an election of species instead of a making a restriction requirement under 35 U.S.C. 121. Applicants emphasize that just because a claim contains two or more inventions which are independent and distinct a restriction requirement in lieu of an election of species is not justified. Finally, applicants assert that the examiner is *de facto* rejecting the non-elected claims by requiring that the non-elected inventions be canceled, even though only formally objecting to them.

To support their argument that restriction within a single claim is improper, applicants point to MPEP 803.02:

> Since the decisions In re Weber, 580 F.2d 455, 198 USPQ 328 (CCPA 1978) and *In re Haas*, 580 F2d. 461, 198 USPQ334 (CCPA 1978), it is improper for the Office to refuse to examine that which applicants regard as their invention, unless the subject matter in a claim lacks unity of invention. *In re Harnisch*, 631 F.2d 716, 206 USPQ 300 (CCPA 1980); and *Ex parte Hozumi*, 3 USP!2d 1059 (Bd. Pat. App. & Int. 1984). Broadly, unity of invention exists where compounds included within a Markush group (I) share a common utility, and (2) share a substantial structural feature disclosed as being essential to that utility.

Applicants' arguments have been fully considered but are not deemed persuasive.

First of all, the Office agrees with applicants that in order to require an election of species within a Markush-type claim, more is required than simply the inventions being independent and distinct. The Office must show that it would be unduly burdensome to examine all the species if restriction were not required. Further, as indicated above in MPEP 803.02, the Office must additionally show that the inventions lack unity of invention, which requires the Office to establish that either there is a lack of common utility **or** a lack of a substantial structural structure essential to that common utility. Without these two requirements for unity of invention, i.e., common utility and substantial structural feature essential to that utility, there is nothing preventing an applicant from lumping into a single method of producing light claim inventions as diverse as a flashlight, a carbon arc spotlight and a laser--all because they have the common utility of producing light. Clearly, a substantial structural feature in combination with a common utility are essential in defining any meaningful unity of invention. In the instant application claim 28 lacks both a substantial structural feature **and** a common utility with regard to the method of detection using a molecule comprising one or more of the 23 SEQ ID NOs.

(b) Applicants argue that there is a substantial chemical structural feature among the SEQ ID NOs.

A comparison of SEQ ID Nos. 1, 5 and 10 shows no indication of any substantial structural feature or similarity.

<400> 1
agagaccagc atgca

<400> 5
cataaatggc tacccag

<400> 10
atcgtcagag gctataa

MPEP 2175.03(b) states in part that:

> . . . , when the Markush group occurs in a claim reciting a process or a combination (not a single compound), it is sufficient if the members of the group are disclosed in the specification to possess at least one property in common which is mainly responsible for

their function in the claimed relationship, and it is clear from their very nature or from the prior art that all of them possess this property.

Applicants argue that the polypeptide backbone of the sequences is the substantial structural feature of the probes of SEQ ID NOs. 1 - 23 which provides the common utility of detection of Candida yeast. This argument has been fully considered but is not deemed persuasive. The fact that the backbone of a nucleic acid or nucleic acid analog may vary so widely, e.g. from a polyanionic ribose phosphate backbone to a neutral polypeptide backbone emphasizes the lack of specificity of the backbone. The functionality (the hybridization to a complementary sequence) and specificity are provided by the sequence order of the four bases forming said backbone (ACTG). This is the property primarily responsible for their function in the claimed process of detecting Candida. And as pointed out above in SEQ ID NOs. 1, 5, and 10, there is no apparent substantial structural feature, which is clear from their very nature or the prior art that is mainly responsible for their function in the claimed relationship in the sequences around which all of the SEQ ID NOs are grouped.

(c) Applicants emphasize that there is a common utility shared by all of the SEQ ID NOs.

For process and combination claims, a proper Markush group may include members which share a common property which is mainly responsible for their function in the claimed relationship, and it is clear from their very nature or from the prior art that all of them possess this property. It is not clear from the alignment of SEQ ID NOs. 1, 5, and 10 what property there is, if any, that they share which is mainly responsible for their function in the claimed relationship.

Furthermore, on page 19 of the specification, the Table illustrates that many of these different sequences are used to detect DNA from different species of Candida. Thus, SEQ ID NO. 1 which would detect C. *albicans* would not be interchangeable with SEQ ID NO. 23 which may be used to detect C. *tropicalis*. The methods of using each probe or each set of probes cannot be substituted one for the other to obtain the same effect.

While applicants argue that the detection of Candida is the common utility of the SEQ ID NOs., the individual probes may detect different species of Candia and combinations of the probes may also detect specific combinations of Candida strains.

Applicants' arguments appear to be directed only to the elected invention, a method for detecting Candida using a combination of all 23 probes. But these arguments are not commensurate in scope with the claimed invention. MPEP 808 explains that the examiner is to consider the invention, as claimed, which thus does not require all SEQ ID NO. 1-23 to be considered. Claim 28 encompasses in the alternative the use of individual probes and sets of probes which do not require all of the SEQ ID Nos. 1-23. For these reasons, the arguments about a common utility are not persuasive. Consequently, the proper application of *In re Weber* does not resolve the instant lack of unity--having a property in common mainly responsible for the function in the claimed relationship.

(2) Applicants Argue that MPEP Cannot Cure Office's Faulty Analysis

Applicant maintains that the Office's position of holding that applicants' claims (especially claim 28) are improper Markush claims because they lack unity of invention and are therefore subject to restriction under 35 U.S.C. 121 is unsound reasoning.

Applicants' arguments have been fully considered but are not deemed persuasive.

First of all, the examiner is required to follow the interpretation of case law as set forth in the M.P.E.P. Furthermore, it is clear from MPEP 803.02 from the Office's interpretation of *In re Weber* and other pertinent case law that an examiner is permitted to restrict within a claim under 35 U.S.C. 121 when the inventions encompassed by said claim lack unity of invention. Additionally, the M.P.E.P. clearly explains how claims directed to polynucleotide sequences claimed both individually and in sets will be restricted and examined. The instant claims recite both individual sequences (Example A: a method of using a probe comprising SEQ ID NO. 1), set (Example B: method of using probes comprising SEQ ID NOs. 1 and 2) and ranges of sets (Example C: method of using a probe comprising using SEQ ID NOs. 1 and 2, SEQ ID NOs. 1 and 5, SEQ ID NOs. 1-23 inclusive, etc.). MPEP 803.04 states that after restriction:

> Based upon the finding of allowable sequences, claims limited to allowable sequences as in example (A), all combinations, such as in examples (b) and (c), containing the allowable sequences will be rejoined and allowed.
>
> Rejoinder will be permitted for claims requiring any allowable sequence(s). Any claims which have been restricted and non-elected and which are limited to the allowable sequence(s) will be rejoined and examined.

For perspective, here is how the above principle might work for claim 28 of the instant application. Claim 28 encompasses over 92 million different combinations of the 23 SEQ ID NOs. which means that there are 92 million different method claims encompassed in the alternative by claim 28. If applicants were to elect the method comprising a single SEQ ID NO. for examination, then when the examiner determines that this SEQ ID NO. is novel and non-obvious, the examiner would allow all claims requiring the method of using this specific SEQ ID NO. or its combination with any or all of the other 22 SEQ ID NOs. This represents a total of more than 4 million different method inventions. Assuming that the methods of using each of the 23 sequences are also novel and non-obvious, then applicants could potentially obtain allowance of the full scope of claim 28 in a total of 28 individual applications.

At this point, because applicants have elected the methods of using a set of PNA probes which requires all of SEQ ID Nos. 1-23, and because the examiner has indicated this invention as free

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[1] It is noted that the partial waiver of restriction for ten sequences discussed in 803.04 pertains only to product inventions comprising polynucleotide sequences and does not apply to process inventions, such as the method of using PNA probes.

of the prior art and otherwise in condition for allowance, applicants must amend their claims to include at least one claim limited to the elected invention in order for the claim objections to be withdrawn and for a claim to be placed in condition for allowance. Applicants may also pursue generic linking claims which encompass all the features of the elected invention and should any of those become allowable, applicants may be entitled to rejoinder under MPEP 809 of any claims which require all the features of the allowable linking claim. For the instant invention, a linking claim could have been drafted in the format of claim 28 in which the list of alternative sequences in claim 28(a) was deleted.

Claims 21 - 42 are withdrawn to the extent that they read on method claims directed to individual SEQ ID NOs. or to combinations other than the combination of all 23 SEQ ID NOs. pursuant to 37 CFR 1.142(b), Claims limited to a method for detecting Candida using the entire combination of 23 SEQ ID NOs. will be allowed.

Additionally, upon indication of an allowable claim, applicants may include claims which require all the features of the allowable invention(s). At this time, no claim is in condition for allowance in view of the outstanding objection that all claims encompass non-elected subject matter.

(3) Applicants maintain that "Unity of Invention" Exists

Applicants' arguments in support of a substantial structural feature and a common utility for all of the inventions of claim 28 have both been addressed in detail under the first argument, "Applicants Argue That the Restriction Controversy is Resolved by *In re Weber*."

It is clear that the essential issue in this restriction controversy is whether or not the inventions embraced by claim 28 in particular possess Unity of Invention. Applicants argue "Yes" and the Office disagrees. Since the Office has determined that Unity of Invention does not exist for claims involving sequences for the reasons noted above, it is reasonable and proper to apply 35 U.S.C. 121 to restrict the claimed inventions to a single method for detecting Candida using a specific set of one or more SEQ ID NOs.

Even though applicant has been required by the examiner to select a SINGLE combination of probes for examination of either Group I or II, this is for examination purposes only. If during examination, the examiner finds that the method of use of even one of the 23 SEQ ID NOs. is both novel and non-obvious, then the examiner would allow method claims directed to the use of that one SEQ ID NO. and any of the other 22 SEQ ID NOs with which it may be combined. This would amount to a total of over 4 million separate inventions that the examiner would be allowing. (Since there are a total of 23 SEQ ID Nos., there are a total of 23 X 4 million = over 92 million distinct method inventions. The total possible number of distinct combinations is equal to 22! divided by n! (22 - n)! summed over the range of n. Applicants could get the full scope of claim 28 examined in 28 separate applications. This does not reasonably constitute a denial of applicants' right to have an entire claim examined. However it does point out the burden placed on the Office to search and examine the full scope of claim 28 as presently constituted.

In the 27 years since the CCPA decided *In re Weber*, there has been an explosion in molecular biology, genomics, and proteonomics which has created an entirely unforseeable search burden upon the Office. Even though initial sequence searching is done by computer, the examiner must review and analyze all of the references identified by the sequence search. The exponential increase in the size of the sequence data-bases created by the completion of the sequencing of the human (and other) genome has made the searching of more than a single SEQ ID No. an undue burden on the Office.

Finally, in the circumstance where the applicant has a method of use involving a novel and non-obvious SEQ ID NO., over 4 million methods using different combinations of 23 SEQ ID NOs. would be allowable holding constant the sequence found to be novel and non-obvious. Following this logic, where there has been a determination that unity of invention is not present as it was in *In re Weber* and like decisions, applicants can obtain examination of claim 28 with its 92 million inventions only by filing additional applications directed to each of the separate sequences and its combination with any and all other sequences disclosed. It is noted that in the instant case the examiner has not indicated that a method of using a single SEQ ID is allowable--only a method of using the combination of the elected sequence with any and all of the other 22 SEQ ID NOs.

In conclusion, *In re Weber* is correct that applicants do have the right to have their entire claimed invention examined so long as there exists a Unity of Invention within that which is claimed. However, where Unity of Invention is lacking it is proper to restrict the patentably distinct and independent inventions under 35 U.S.C. 121. This approach is a balance between the rights of the single instant inventor and the rights of other inventors to have their inventions examined in a timely manner.

DECISION

For the above reasons, this renewed petition to withdrawn the restriction requirement is **DENIED**.

Applicants remain under obligation to reply to the Office action mailed 6 October 2005 within the time period set therein or as extended under 37 CFR 1.136(a).

Any request for consideration of this decision must be filed within two (2) months of the mailing date of this decision in order to be considered timely.

Should there be any questions regarding this decision, please contact Special Program Examiner, William R. Dixon, Jr. by letter addressed to 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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DW 10-02

Paper No. 5

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
1300 I STREET, NW
WASHINGTON DC 20006

COPY MAILED

OCT 2 2 2002

OFFICE OF PETITIONS

In re Application of	:	
Stewart et al.	:	
Application No. 10/150,058	:	DECISION GRANTING PETITION
Filed: 20 May, 2002	:	
Atty's Dkt. No. 07787.0029-02	:	

This is a decision on the petition filed on 26 August, 2002, requesting that the above-identified application, including one (1) sheet of drawings containing Figure 3, be accorded a filing date of 20 May, 2002.

On 20 May, 2002, the application was filed.

On 27 June, 2002, Initial Patent Examination Division mailed a Notice of Omitted Items in a Nonprovisional Application stating that the application had been accorded a filing date of 20 May, 2002, but that Figure 3 described in the specification appeared to have been omitted.

In response, on 26 August, 2002, one (1) sheet of drawings containing Figure 3, the present petition, and a petition fee were filed. Petitioners argue that one (1) sheet of drawings containing Figure 3 was filed with the other application papers on 20 May, 2002, but was 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 20 May, 2002, and acknowledges receipt, *inter alia*, of twenty-three sheets of drawings consisting of Figures 1-23. Petitioners request that the application, including the one (1) sheet of drawings containing Figure 3, be accorded a filing date of 20 May, 2002.

A review of the record reveals that 22 sheets of drawings, containing Figures 1, 2, and 4-23 are located among the application papers deposited on 20 May, 2002. However, the evidence is convincing that the application papers deposited on

20 May, 2002, included one (1) sheet of drawing containing Figure 3 as described in the specification, which was subsequently misplaced in the Office. Therefore, the application, including the one (1) sheet of drawing containing Figure 3 as described in the specification, is entitled to a filing date of 20 May, 2002.

The "Notice" mailed on 27 June, 2002, is vacated.

In view of the above, the petition is granted. The petition fee will be refunded to counsel's deposit account, No. 06-0916.

The application will be processed and examined using the one (1) sheet of drawing containing Figure 3 supplied on 26 August, 2002.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 20 May, 2002, using the application papers filed on 20 May, 2002, and the one (1) sheet of drawing containing Figure 3, supplied on 26 August, 2002, and for an indication in Office records that 23 drawing sheets were present on filing.

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
P.O. Box 1450
Alexandria, VA 22313-1450
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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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FEB 14 2005

OFFICE OF PETITIONS

In re Application :
C. Neal Stewart et al. :
Application No. 10/150,058 : DECISION ON APPLICATION
Filed: May 20, 2002 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. 07787.0029-02 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)...," filed April 1, 2004. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from one hundred ten (110) days to one hundred sixty-six (166) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is one hundred sixty-six **(166)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On January 2, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 110 days. On April 1, 2004, applicants timely[1] submitted an application for patent term adjustment (with required fee), asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is one hundred sixty-six (166) days. Applicants assert entitlement to a patent term adjustment of 166 days on the basis that the USPTO failed to mail the first Office action within 14 months of the filing date of the application. However, applicants dispute the reduction of 56 days attributed to applicant for failing to respond within three months to the Notice Omitted Items In a Nonprovisional Application mailed June 27, 2002.

Applicants specifically state that the patent issuing from the application is not subject to a terminal disclaimer.

---

[1] PALM records indicate that the Issue Fee was received in the Office on April 1, 2004.

The Office initially determined a patent term adjustment of one hundred sixty-six (166) days based on an adjustment for PTO delay of one hundred ten (110) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1) and reduced by applicants' delay of fifty-six (56) days, pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b). The reduction of fifty-six (56) days is at issue.

The reduction of 56 days has been found to be incorrect. A response in the form of a petition to withdraw the Notice of Omitted Items was filed on August 26, 2002. A review of the application file reveals that, as stated by applicants, a decision granting the petition to withdraw the Notice of Omitted Items was mailed October 22, 2002. The decision acknowledged that the figure alleged to have been omitted from the initial filing was not omitted and that the postcard receipt submitted as proof was probative of the fact that the application was completed upon filing. Thus, the Office should not have entered the date that the instant application was complete as November 22, 2002 or assessed applicants a delay of fifty-six (56) days. The response to the Notice of Omitted Items was filed within the three-month period under 37 CFR 1.704(b) and accordingly, applicant's delay should have been assessed as zero (0) days. Applicants did not fail to engage in reasonable efforts to conclude prosecution of the application.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is one hundred sixty-six (166) days.

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

The Office will forward the file to the Office of Patent Publication so that a patent can be issued.

Telephone inquiries specific to this matter should be directed to Patricia Faison-Ball, Senior Petitions Attorney, at (571) 272-3212.

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

Enclosure: Copy of Revised PAIR Screen

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BURGESS & BEREZNAK LLP
800 WEST EL CAMINO REAL
SUITE 180
MOUNTAIN VIEW, CA 94040

COPY MAILED

JAN 25 2006

OFFICE OF PETITIONS

In re Application of :
Thomas Mallory Sherlock :
Application No. 10/150,093 : ON PETITION
Filed: August 7, 2002 :
Attorney Docket No. 06642.P001 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 10, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 5, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned at midnight on March 6, 2003.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

The Revocation of Power of Attorney and Change of Correspondence Address has been accepted and recorded.

The petition satisfies the requirement of 37 CFR 1.137 (b) in that petitioner has supplied (1) the reply in the form of an Amendment; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the petition filed November 10, 2005 is accepted as having been unintentionally delayed.

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

The application matter is being referred to Technology Center 3700, Art Unit 3713 for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions

OIPE JC168
AUG 16 2002
PATENT & TRADEMARK OFFICE

#3 MP#

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Keiko NERIISHI

Appln. No.: 10/150,098

Confirmation No.: 2590

Filed: May 20, 2002

Docket No: Q70236

Group Art Unit: 1773

Examiner: Not Yet Assigned

For: DETECTION OF TARGET SUBSTANCES UTILIZING BIOCHEMICALLY SPECIFIC BINDING REACTION

RESPONSE TO NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION FILED UNDER 37 CFR 1.53(B) - FILING DATE GRANTED

ATTN: BOX MISSING PARTS
Commissioner for Patents
Washington, D.C. 20231

Sir:

In response to the "Notice to File Missing Parts of Nonprovisional Application filed under 37 CFR 1.53(b) - Filing Date Granted," mailed June 18, 2002, for the above application, Applicant respectfully submits herewith the Declaration for the above identified application properly executed by the inventors. Also enclosed please find Submission of Priority Documents.

The Office is hereby directed and authorized to charge the statutory filing fee of $130.00 to Deposit Account No. 19-4880. You are also directed and authorized to charge or credit any difference or overpayment to Deposit Account No. 19-4880. The Commissioner is hereby authorized to charge any fees under 37 C.F.R. § 1.16, 1.17 and 1.492 which may be required during the entire pendency of the application to Deposit Account No. 19-4880. A duplicate copy of this transmittal letter is attached.

Respectfully submitted,

Mark Boland

Mark Boland
Registration No. 32,197

SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, N.W.
Washington, D.C. 20037-3213
Telephone: (202) 293-7060

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/150,098	05/20/2002	Keiko Neriishi	Q70236

SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, NW
Washington, DC 20037-3213

OIPE JC150 AUG 16 2002 PATENT & TRADEMARK OFFICE

CONFIRMATION NO. 2590
FORMALITIES LETTER

OC000000008305517

Date Mailed: 06/18/2002

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.

08/19/2002 CCHAU1 00000056 10150098
01 FC:105 130.00 CH

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

M. Declat

Customer Service Center
Initial Patent Examination Division (703) 308-1202

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 6

VIDAS, ARRETT & STEINKRAUS, P.A.
6109 BLUE CIRCLE DRIVE
SUITE 2000
MINNETONKA MN 55343-9185

COPY MAILED

AUG 2 8 2003

OFFICE OF PETITIONS

In re Application of :
Lenz et al. :
Application No. 10/150,117 : DECISION ON
Filed: May 18, 2002 : PETITION
Attorney Docket No. S63.2-10107 :

This is a decision on the petition filed August 20, 2003, requesting that the above-identified application be accorded a filing date of May 17, 2002, rather than the presently accorded filing date of May 20, 2002.

Petitioner asserted that the filing date was erroneously recorded as May 20, 2002. Petitioner stated:

> Enclosed please find a copy of the US Postal Service Tracking Record indicates that an attempt was made to deliver the Express Package with the application on May 18, 2002 to the United States Patent and Trademark Office. Due to the Patent Office being closed on Saturday and Sunday, it would not arrive in your mail room until May 20, 2002. As a delivery attempt was made on Saturday, May 18, 2002, the mailing date would have to be earlier and could not be later. The Express Mail Label would have to be dated May 17, 2002 as the post office is closed on Saturdays and Sundays.

Petition dated August 20, 2003, p. 1.

It is unclear from the petition if petitioner is alleging that there is a discrepancy between the filing date accorded by the United States Patent and Trademark Office (USPTO) and the date-in entered by the United States Patent and Trademark Office (USPS) (37 CFR 1.10(c)) or that the date-in was incorrectly entered by the USPS (37 CFR 1.10(d)). Therefore, the Office will treat this petition under both 37 CFR 1.10(c) and (d).

Paragraph (a) of 37 CFR 1.10 states that:

> Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing

label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date. See §1.6(a) (Emphasis added).

Consideration under 37 CFR 1.10(c)

Paragraph (c) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
> (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

The present petition lacks the showing required by item (3) above.

Petitioner did not include a copy of the Express Mail mailing label, indicating the date-in. Further, petitioner did not submit any other official notation by the USPS showing the date of deposit as May 17, 2002.

Consideration under 37 CFR 1.10(d)

Paragraph (d) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) and fee(s) that constitute the

correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a showing, which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

The present petition lacks the showing required by item (3) above.

A grantable petition under 37 CFR 1.10(d) must include "a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in 'Express Mail Post Office to Addressee' service prior to the last scheduled pickup for that day." In addition, the showing "must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the 'Express Mail Post Office to Addressee' service of the USPS." Evidence from the USPS may be, for example, the Express Mail Corporate Account Mailing Statement or a statement by an appropriate official of the USPS that according to a USPS record the "date-in" on petitioner's Express Mail receipt is erroneous, accompanied by a copy of the relevant USPS record. Evidence that came into being within one day after the deposit of the correspondence as Express Mail may be, for example, a log book which contains information such as the Express Mail label number; the application number, attorney docket number or other such file identification number; the place, date and time of deposit; the time of the last scheduled pick-up for that date and place of deposit; the depositor's initials or signature; and the date and time of the log book entry.

In support of petitioner's assertion, petitioner submitted a copy of the USPS Track/Confirm - Intranet Item Inquiry Database, which indicated that a package bearing Express Mail label No. EV106144779US arrived at the unit in Washington, DC 20599 on May 18, 2002, at 10:00. The USPS Database demonstrated that notice was left in Washington, DC 20231 on May 18, 2002, at 11:59, and was delivered to the USPTO at 10:48 on May 20, 2002.

The Office notes that petitioner bears the burden to prove that the "date-in" was incorrectly entered on the "Express Mail" mailing label. Petitioner has not provided any direct evidence of the delivery of the present application to the USPS on May 17, 2002. Absent evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail" service, which corroborates the allegation that the application was, in fact, deposited with the USPS on May 17, 2002, before the last scheduled pick-up for that day, the application will be accorded the earliest date indicated in the USPS Database as the date the application was accepted by the USPS, **i.e. May 18, 2002**.

Accordingly, the petition is **dismissed** as to according the application a filing date of May 17, 2002. However, the application will be accorded a filing date of **May 18, 2002.**

Any request for reconsideration 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).

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

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

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

By hand: Crystal Plaza Four, Suite 3C23
2201 South Clark Place
Arlington, VA 22202

This file is being forwarded to forwarded to the Office of Initial Patent Examination to correct the filing date to **May 18, 2002.**

Telephone inquiries regarding this matter should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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MAR 23 2006

OFFICE OF PETITIONS

In re Application of	:	
Tetsuo Watanabe et al	:	
Application No. 10/150,150	:	DECISION GRANTING PETITION
Filed: May 20, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 03560.003037	:	

This is a decision on the petition, filed March 15, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 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]

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

This matter is being referred to Technology Center AU 2882 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).*

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)
6879361	2005-04-12	10150190	2002-05-17	21C-0030

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Noah J. Hayward/	Date (YYYY-MM-DD)	2010-01-25
Name	Noah J. Hayward	Registration Number	59515

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. 6879361
Issue Date: April 12,2005
Application No. 10150190
Filed: May 17,2002
Attorney Docket No. 21C-0030

:

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

:

This is a decision on the electronic petition, filed January 25,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 25,2010 . 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
www.uspto.gov

Douglass G. Hodder
MORRISON & FOERSTER LLP
755 Page Mill Road
Palo Alto, CA 94304-1018

MAILED

MAY 12 2005

Technology Center 2100

In re Application of:
Woo-Seok Chang
Application No. 10/150,205
Filed: May 17, 2002
For: METHOD OF PROVIDING USER INTERFACE VIA WEB

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 March 11, 2005.

A Revocation And Substitution Of Power Of Attorney Under 37 CFR § 1. 36 was filed on March 11, 2005. The Power Of Attorney revoked all prior Powers Of Attorney and appointed the SeCugen Corporation as the attorneys of record of the instant application. The Power Of Attorney filed March 11, 2005 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by SecuGen Corporation.

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

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

for

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

5/6/05

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

PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

Mail Date: 04/21/2010

Applicant	: Adriano Huber	: DECISION ON REQUEST FOR
Patent Number	: 7606931	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/150,210	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/16/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1826** 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

SEP 1 8 2005

Koda & Androlia
Suite 1140
2029 Century Park East
Los Angeles, CA 90067-3024

In re Application of : **DECISION ON PETITION**
Sumiko Imai : **TO WITHDRAW THE**
Application No. 10/150,248 : **HOLDING OF ABANDONMENT**
Filed: May 17, 2002 :
For: INTEGRATED COLUMN STRUCTURAL BODY

This is a decision on the Petition to Withdraw the Holding of Abandonment filed in the United States Patent and Trademark Office on December 14, 2004.

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

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____.

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

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

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

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

☒ Originally sent response filed November 23, 2004, with a Certificate of Mailing signed and dated November 18, 2004, has been found and matched with the application.

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

RAR/rwg: 7/12/05

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
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AUG 1 8 2006

OFFICE OF PETITIONS

KODA & ANDROLIA
2029 CENTURY PARK EAST
SUITE 1140
LOS ANGELES CA 90067-3024

In re Application of :
Sumiko Imai :
Application No. 10/150,248 : ON PETITION
Filed: May 17, 2002 :
Attorney Docket No. 261A 3167 :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file an Appeal Brief after Applicant had filed a Notice of Appeal. The Office mailed a final Office action on May 18, 2004. Applicant filed a Notice of Appeal on November 23, 2004, made timely by obtaining a three' (3) month extension of time and including a Certificate of Mailing dated November 18, 2004. However, as no Appeal Brief was filed within two (2) months, the application became abandoned on January 24, 2005.

With the instant petition, applicants paid the petition fee, submitted the required reply in the form of an RCE, and made the proper statement of unintentional delay.

The matter is being forwarded to Group Art Unit 3637 for consideration of the RCE filed January 3, 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
www.uspto.gov

Corporate Patent Counsel
Philips Electronics North America Corporation
580 White Plains Road
Tarrytown NY 10591

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MAY 11 2006

OFFICE OF PETITIONS

In re Application of :
Shearer, et al. :
Application No. 10/150,253 : ON PETITION
Filed: May 15, 2002 :
Attorney Docket No. US 020126 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 12, 2006, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue fee and publication fee within three (3) months of the mailing of the Notice of Allowance and Fee(s) Due, mailed August 10, 2004. Accordingly, this application became abandoned on November 11, 2004. A Notice of Abandonment was mailed on August 3, 2005.

Applicant has submitted a proper reply in the form of the issue fee, the publication fee and a completed PTOL-85, an acceptable statement of the unintentional nature of the delay in responding to the August 25, 2005 Notice of Allowance and Fee(s) Due, and the petition fee.

The petition is **granted**.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. 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.

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

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

CC: Philips Electronics North America Corporation
1109 McKay Drive MS41-SJ
San Jose, CA 95131

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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JJGJR.: 07-06

Paper No: __

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JUL 17 2006

OFFICE OF PETITIONS

LIPSITZ & MCALLISTER, LLC
755 MAIN STREET
MONROE CT 06468

In re Application of	:	
Wang, et al.	:	
Application No. 10/150,269	:	DECISION
Filing Date: 17 May, 2002	:	
Attorney Docket No.: GIC-662	:	

This is a decision on the petition filed on 6 June, 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**.

NOTE:

Although identified as Counsel for assignee, there is no indication that Petitioner herein was empowered to prosecute the instant application. If Petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 23 February, 2005, with reply due absent extension of time on or before 23 May, 2005;
- the instant application went abandoned after midnight 23 May, 2005;
- the Office mailed a Notice of Abandonment on 8 September, 2005;
- on 6 June, 2006, Petitioner filed the instant petition (with fee), reply in the form of an amendment, and made the statement of unintentional delay.

Out of an abundance of caution, Petitioners always are reminded that:

- the practice of using the former one- (1-) year deadline following abandonment as an unpaid extension of time is an unacceptable practice and gives the appearance of intentional delay; and
- those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not

---

(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]

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[4] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

constitute the care required under Pratt,[7] 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 Allegation
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.

The record (including the petition filed on 6 June, 2006) does not necessitate a finding that the delay between midnight 23 May, 2005 (date of abandonment), and 6 June, 2006 (date of filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Petitioners Wang and Panusopone and Counsel Thomas Bethea (Reg. No. 53,987) when accepting Petitioners' representation that the delay in filing the response was unintentional.[9]

It appears that Petitioner has satisfied the requirements of 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.

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[7] The test of diligence in the prosecution of an application before the Commissioner is, in the context of ordinary human affairs, the test is such care as is generally used and observed by prudent and careful persons in relation to their most important business. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r. Pat. 1913).

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

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

cc:
THOMAS BETHEA
MOTOROLA, INC.
101 TOURNAMENT DRIVE
HORSHAM, PA 19044

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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FEB 0 8 2007

OFFICE OF PETITIONS

In re Application of
Limin Wang, et al.
Application No. 10/150,269
Filed: May 17, 2002
Attorney Docket No. GIC-662

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 4, 2006.

The request is **NOT APPROVED**.

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

The request cannot be approved because there remains less than 30 (thirty days) between the date of this decision and the maximum extendable time period for filing a response to the Office action mailed on August 10, 2006.

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, "file transferred to client Motorola, Inc. for handling by in-house counsel", does not meet any the conditions set forth in 37 CFR 10.40.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: MOTOROLA, INC.
101 TOURNAMENT DRIVE
HORSHAM, PA 19044

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20060817

DATE : August 17, 2006

TO SPE OF : ART UNIT 2835

SUBJECT : Request for Certificate of Correction on Patent No.: 6711018

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

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

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

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

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

☒ **Approved** **All** changes apply.

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

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

Comments:

LYNN FEILD
SUPERVISORY PATENT EXAMINER

SPE: Lynn Feild **Art Unit** 2835

OIPE
APR 25 2006
PATENT & TRADEMARK OFFICE

10/150,298

C of C

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventors:	Chin-Kuang Luo	§	Group Art Unit: 2835
Patent No.:	6,711,018 B2	§	
Issued:	March 23, 2004	§	Examiner: Gerald Tolin
For:	Heat-Dissipating Module	§	Atty. Dkt. No.: SIS.0089US

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

Certificate
APR 27 2006
of Correction

REQUEST FOR CERTIFICATE OF CORRECTION
OF PATENT FOR APPLICANT'S MISTAKE
(37 C.F.R. § 1.323)

1. It is noted that an error appears in this patent of a clerical nature, as more fully described below. It occurred in good faith. Correction thereof does not involve such changes in the patent as would constitute new matter or would require re-examination. A certificate of Correction is requested.

2. Attached hereto, in duplicate is Form PTO-1050, with at least one copy being suitable for printing.

3. The location where the error occurs in the application file is in the "Reply to Paper No. 4" filed May 29, 2003, in the Appendix, claim 1, lines 1-13, a clerical error occurred in that the wrong claim 1 was inserted in the Appendix. No amendments were made to claim 1 and therefore a Certificate of Correction is needed to cancel the present claim 1 and add claim 1 as originally filed.

Date of Deposit: 4-20-06
I hereby certify under 37 CFR 1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated above and is addressed to the Commissioner for Patents, Washington, DC 20231.
Sherry Tipton
Sherry Tipton

MAY 01 2006

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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Clarence T. Tegreene, Esq.
Intellectual Property Counsel
Microvision, Inc.
19910 North Creek Parkway, PO Box 3008
Bothell WA 98011

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MAY 07 2007

OFFICE OF PETITIONS

In re Application of Lewis et al. :
Application No. 10/150,309 : Decision on Petition
Filing Date: May 17, 2002 :
Attorney Docket No. MVIS 97-06 C3 :

This is a decision on the petition under 37 CFR 1.181, filed July 26, 2004, to withdraw the holding of abandonment.

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

A Notice of Appeal was filed December 29, 2003.

A Notice of Abandonment was mailed June 25, 2004.

The instant petition, a RCE, and a five-month request for an extension of time were filed July 26, 2004 (certificate of mailing date of July 23, 2004).

Since the period of time to file an appeal brief or RCE after a Notice of Appeal can be extended by up to five months, the papers filed July 26, 2004, are timely and the application is not abandoned.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

A fee is not required for a petition to withdraw the holding of abandonment. Therefore, the $130 submitted for a petition fee has been credited back to petitioner's deposit account.

The file will now be sent to Technology Center Art Unit 2674 for entry and consideration of the RCE filed July 26, 2004.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

cc: Graybeal Jackson Haley LLP
Suite 350
155 - 108th Avenue N.E.
Bellevue, WA 98004-5973

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

REQUEST FOR PATENT FEE REFUND

10/150309

1 Date of Request: 05/03/07	2 Serial/Patent # ~~10/054,756~~

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
X	Petition	17	07/26/04	$ 130.00
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND: $ 130.00

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 0 7 -- 1 ~~0~~ 8 ~~8~~ 9 7

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

Extension time fee paid after abandoned so refundable. The $65 surcharge was paid twice.

Sale back under code 1460 - $130. I could refund the # under DA-07-1987 because it is not active.

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Charles Steven Brantley TITLE: Senior Petitions Attorney

SIGNATURE: PHONE: 571-272-3203

OFFICE: Office of Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: DATE: 5/16/07

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

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United States Patent and Trademark Office
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ERIC P. MCALPINE
JENNER & BLOCK
ONE IBM PLAZA
CHICAGO, IL 60611

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JUL 11 2005

OFFICE OF PETITIONS

In re Application of :
Chloe Tyler Winterbotham :
Application No. 10/150,310 : ON PETITION
Filed: May 17, 2002 :
Attorney Docket No. 37048-10002 :

This is a decision on the petition under 37 CFR 1.313 (c)(2), filed July 8, 2005, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 31, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 3762 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON DC 20004-2128

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MAR 0 4 2004

OFFICE OF PETITIONS

In re Application of
Manabu Yanagihara et al
Application No. 10/150,326
Filed: May 20, 2002
Attorney Docket No. 740819-783

ON PETITION

This is a decision on the petition, filed February 26, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 10, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 2814 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJ: 04-03

Paper 8

KING & SPALDING
191 PEACHTREE STREET, N.E.
ATLANTA GA 30303-1763

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APR 1 7 2003

OFFICE OF PETITIONS

In re Application of :
Anton, et al : DECISION ON PETITION
Application No.10/150,333 :
Filed: 17 May, 2002 :
Attorney Docket No. 08475.105004 :

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47,[1] filed on 30 October, 2002.

The Office regrets the delay in addressing this matter.

Petitioner has shown that, while inventors Richard N. Anton and James K. Etheridge have signed the oath/declaration, the non-signing inventors **Robert G. Newland, Jr.** (Mr. Newland) and **Dustin W. Sias** (Mr. Sias) have refused or otherwise failed to join in the filing of the above-identified application after having been presented with the application papers.

Specifically, the declaration/statement/submission of facts of/by William O. Isaacs II (Reg. No. 44,165) and Randy L. Lukasik (President and CEO of Cyber Operations LLC) and Suzanne Lange (Executive Assistant at Cyber Operations LLC) establish that the non-signing inventors were mailed the application papers, including the specification, claims and drawings, but failed to respond positively to the request that he sign the declaration or in fact sign said declaration.

Lastly, Petitioner has submitted a declaration in compliance with 37 C.F.R. §1.63 and §1.64 and

---

[1] The regulations at 37 C.F.R. §1.47 provide:

§1.47 Filing when an inventor refuses to sign or cannot be reached.

(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in §1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

© The Office will send notice of the filing of the application to all inventors who have not joined in the application at the address(es) provided in the petition under this section, and publish notice of the filing of the application in the *Official Gazette*. The Office may dispense with this notice provision in a continuation or divisional application, if notice regarding the filing of the prior application was given to the nonsigning inventor(s).

[47 Fed. Reg. 41275, Sept. 17, 1982, effective Oct. 1, 1982; 48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

Petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

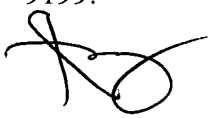
This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a)**.

As provided under 37 C.F.R. §1.47(a), the 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 also will be published in the Official Gazette.

This file is being forwarded to OIPE for processing as necessary to reflect the instant decision, and then will be returned to Technology Center 2800 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJ: 04-03

Paper 9

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APR 1 7 2003

OFFICE OF PETITIONS

ROBERT G. NEWLAND, JR.
5828 STONEWOOD COURT
JUPITER, FLORIDA 33477

In re Application of :
Anton, et al : COMMUNICATION
Application No.10/150,333 :
Filed: 17 May, 2002 :
Attorney Docket No. 08475.105004 :

Dear Robert G. Newland, Jr.:

You are named as inventor in the above-identified United States patent application, filed under the provisions of 35 U.S.C. §116 (United States Code), and 37 C.F.R. §1.47,[1] ¶a, Rules of Practice in Patent Cases.

Should a patent be granted on the application you will be designated therein as inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 C.F.R. §1.19) or make your position of record in the application.

Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. §1.63.

---

[1] The regulations at 37 C.F.R. §1.47 provide:

§ 1.47 Filing when an inventor refuses to sign or cannot be reached.

(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in §1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

© The Office will send notice of the filing of the application to all inventors who have not joined in the application at the address(es) provided in the petition under this section, and publish notice of the filing of the application in the *Official Gazette*. The Office may dispense with this notice provision in a continuation or divisional application, if notice regarding the filing of the prior application was given to the nonsigning inventor(s). [47 Fed. Reg. 41275, Sept. 17, 1982, effective Oct. 1, 1982; 48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

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 toll-free: (800) 972-6382 (outside the Washington D.C. area).

Telephone inquiries concerning this correspondence may be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

Counsel of Record:
KING & SPALDING
191 PEACHTREE STREET, N.E.
ATLANTA GA 30303-1763

UNITED STATES PATENT AND TRADEMARK OFFICE

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JJGJ: 04-03

Paper 10

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APR 1 7 2003

OFFICE OF PETITIONS

DUSTIN W. SIAS
126 WENTWORTH COURT
JUPITER, FLORIDA 33458

In re Application of :
Anton, et al : COMMUNICATION
Application No.10/150,333 :
Filed: 17 May, 2002 :
Attorney Docket No. 08475.105004 :

Dear Dustin W. Sias:

You are named as inventor in the above-identified United States patent application, filed under the provisions of 35 U.S.C. §116 (United States Code), and 37 C.F.R. §1.47,[1] ¶a, Rules of Practice in Patent Cases.

Should a patent be granted on the application you will be designated therein as inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 C.F.R. §1.19) or make your position of record in the application.

Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. §1.63.

---

[1] The regulations at 37 C.F.R. §1.47 provide:

§ 1.47 Filing when an inventor refuses to sign or cannot be reached.

(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in §1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

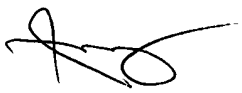
© The Office will send notice of the filing of the application to all inventors who have not joined in the application at the address(es) provided in the petition under this section, and publish notice of the filing of the application in the *Official Gazette*. The Office may dispense with this notice provision in a continuation or divisional application, if notice regarding the filing of the prior application was given to the nonsigning inventor(s).

[47 Fed. Reg. 41275, Sept. 17, 1982, effective Oct. 1, 1982; 48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

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 toll-free: (800) 972-6382 (outside the Washington D.C. area).

Telephone inquiries concerning this correspondence may be directed to the undersigned at (703) 305-9199.



John J. Gillon, Jr.
Senior Attorney
Office of Petitions

Counsel of Record:
KING & SPALDING
191 PEACHTREE STREET, N.E.
ATLANTA GA 30303-1763

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William O. Isaacs, II
KING & SPALDING LLP
191 Peachtree Street, N.E.
45th Floor
Atlanta, GA 30303-1763

MAILED

MAY 31 2005

Technology Center 2100

In re Application of:
Anton, et al.
Application No. 10/150,333
Filed: May 17, 2002
For: SYSTEM AND METHOD FOR ENCODING AND DECODING DATA FILES

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed April 11, 2005.

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

The request is **GRANTED**.

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

Michelle R. Eason for

Vincent N. Trans
Special Program Examiner
Technology Center 2100

cc: Richard Cusick, Esq.
CYBER OPERATIONS, LLC
Attn: Legal Department
153 Cahaba Valley Parkway
Pelham, Alabama 35124

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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SMITH, GAMBRELL & RUSSELL
SUITE 3100, PROMENADE II
1230 PEACHTREE STREET, N.E.
ATLANTA GA 30307-3592

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DEC 22 2006

OFFICE OF PETITIONS

In re Application of	:	
Anton, Richard N.	:	
Application No. 10/150,333	:	ON PETITION
Filed: May 17, 2002	:	
Attorney Docket No. 08475.10544	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 23, 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) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

ROGER H. CRISS
HONEYWELL INTERNATIONAL INC. - LAW DEPT.
101 COLUMBIA ROAD
MORRISTOWN NJ 07962

COPY MAILED

AUG 2 3 2002

OFFICE OF PETITIONS

In re Application of
Myojin, et al.
Application No. 10/150,382
Filed: May 17, 2002
Attorney Docket No. H0003801 (4710)
For: COPPER-NICKEL-SILICON TWO PHASE QUENCH SUBSTRATE

DECISION GRANTING PETITION

This is a decision on the petition, filed June 27, 2002, requesting, in effect, withdrawal of the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed June 20, 2002.

The application was filed on May 17, 2002. On June 20, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioners that page 4 of the specification appeared to have been omitted. In addition, the Notice required a signed oath or declaration and $130.00 for its late filing.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that page 4 be accorded a filing date of May 17, 2002 on the basis that the entire specification, including allegedly missing page 4, was received in the Patent and Trademark Office (PTO) on May 17, 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 17, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 17 pages of specification. A review of the application file reveals that there are 16 pages present. Page 4 is missing.

The return postcard constitutes *prima facie* evidence that the entire specification, including missing page 4, was filed on May 17, 2002. MPEP 503. Accordingly, the request is granted.

The $130.00 petition fee will be credited to petitioners' deposit account, no. 01-1125.

The Office acknowledges receipt of an executed declaration and surcharge, submitted June 27, 2002.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of May 17, 2002, using the copy of page 4 supplied with the petition.

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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OIPE JC88 OCT 0 9 2002 PATENT & TRADEMARK OFFICE

Paper No. 6

ROGER H. CRISS
HONEYWELL INTERNATIONAL INC. - LAW DEPT.
101 COLUMBIA ROAD
MORRISTOWN NJ 07962

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AUG 2 3 2002

OFFICE OF PETITIONS

In re Application of
Myojin, et al.
Application No. 10/150,382
Filed: May 17, 2002
Attorney Docket No. H0003801 (4710)
For: COPPER-NICKEL-SILICON TWO PHASE QUENCH SUBSTRATE

DECISION GRANTING PETITION

This is a decision on the petition, filed June 27, 2002, requesting, in effect, withdrawal of the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed June 20, 2002.

The application was filed on May 17, 2002. On June 20, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioners that page 4 of the specification appeared to have been omitted. In addition, the Notice required a signed oath or declaration and $130.00 for its late filing.

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The Office acknowledges receipt of an executed declaration and surcharge, submitted June 27, 2002.

RECEIVED

AUG 29 2002

OFFICE OF PETITIONS

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of May 17, 2002, using the copy of page 4 supplied with the petition.

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : JULY 26, 2007

TO SPE OF : ART UNIT 2878

SUBJECT : Request for Certificate of Correction for Appl. No.: 10150417 Patent No.: 6914237B2

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: _____

_____

_____

_____

_____

Georgia Epps
SPE

2878
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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NOV 09 2007

OFFICE OF PETITIONS

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

In re Application of :
Eisenschmid, et al. : DECISION ON PETITION
Application No. 10/150,425 :
Filed: May 17, 2002 :
Docket No.: 10191/2420 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed July 16, 2007.

This application was held abandoned following the decision by the Board of Patent Appeals and Interferences mailed May 14, 2007. Notice of Abandonment was mailed June 20, 2007.

Petitioners argue in essence that the Notice of Abandonment was prematurely mailed as applicant had two months from the mail date of the Board decision to seek judicial review or to seek a reopening of prosecution by submission of a request for continued examination (RCE).

Petitioners' arguments have been carefully considered and found convincing.

The proceedings in an application or ex parte reexamination proceeding are terminated as of the date of the expiration of the time for filing court action. *See*, 37 CFR 1.197(b) and MPEP 1214.06.

Further, an applicant may obtain continued examination of an application by filing a request for continued examination (see form PTO/SB/30), a submission and the fee set forth in 37 CFR 1.17(e) prior to the filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit or the commencement of a civil action (unless the appeal or civil action is terminated). *See*, 37 CFR 1.114(a)(3) MPEP 706.07(h).

The Board decision was mailed May 14, 2007. Applicant had until July 14, 2007 to seek judicial review or to file a proper RCE. Notice of Abandonment, however, was mailed June 20, 2007.

In view of the evidence presented, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to Technology Center 2800 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Brown & Michaels, PC
400 M & T Bank Building
118 North Tioga St.
Ithaca, NY 14850

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NOV 29 2005

OFFICE OF PETITIONS

In re Application of	:	
Laun et al.	:	DECISION ON PETITION
Application No. 10/150,428	:	UNDER 37 CFR 1.137(b)
Filed: May 17, 2002	:	
Attorney Docket No. LAUN 05/02	:	

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

This application became abandoned for failure to reply timely to the Notice Regarding Drawings mailed December 22, 2004, which set a two-month period to correct drawing informalities. Accordingly, this application became abandoned on February 23, 2005. A Notice of Abandonment was mailed on April 18, 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 corrected drawings, paid the petition fee, and made the proper statement of unintentional delay.

The petition is **granted.**

This matter is being referred to the Office of Patent Publications.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Notice of Draftsperson's Patent Drawing Review

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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CROMPTON SEAGER AND TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

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JUL 26 2005

OFFICE OF PETITIONS

In re Application of	:	
Ostroff et al.	:	
Application No. 10/150,434	:	DECISION GRANTING PETITION
Filed: May 17, 2002	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 1201.1138101	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 23, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/663,606, file August 27, 2001, as set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the 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 36 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

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

This matter is being referred to Technology Center Art Unit 3762 for appropriate action on the amendment filed June 23, 2005, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 06-05

Paper No: __

SCHWABE, WILLIAMSON
& WYATT, P.C.
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND OR 97204

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JUN 2 1 2005

OFFICE OF PETITIONS

In re Application of :
Bierhuizen : DECISION
Application No. 10/150,438 :
Filing Date: 17 May, 2002 :
Attorney Docket No. 4589P017 :

This is a decision on the renewed petition filed on 9 December, 2004, alleging, *inter alia*, unavoidable delay under 37 C.F.R. §1.137(a) and unintentional delay under 37 C.F.R. §1.137(b) and–in light of the allegations–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 under 37 C.F.R.§1.137(a) is **GRANTED**;
- the petition as considered under 37 C.F.R.§1.181 is **DISMISSED**, and
- the petition under 37 C.F.R.§1.137(b) is **DISMISSED as moot**.

NOTE: Docketing of Status Inquiries at six- (6-) month intervals following the filing of papers/replies and/ or timely online (Private PAIR) review of application status may be prudent practice to demonstrate diligence when lengthy delays occur in matters such as this.

BACKGROUND

The record reflects that:

- it appeared that Petitioner failed to reply timely and properly to the Notice of Missing Parts mailed on 17 June, 2002, with reply due absent extension of time on or before Monday, 19 August, 2002;
- the instant application went abandoned after midnight 17 August, 2002;
- the Office mailed a Notice of Abandonment on 28 August, 2002;
- prior to and/or with the instant petition (and fee authorization) Petitioner submitted/authorized the required reply (oath/declaration and fees).

Notably, while the instant case went abandoned in August 2002, the instant petition was not filed until December, 2004.

Under the Rules of Practice (37 C.F.R. Part 1), a petition seeking relief under 37 C.F.R. §1.181, et seq., should be filed within two (2) months of the action complained of.

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]

---

[1] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

As to a Request to Withdraw
the Holding of Abandonment

Petitioner requests withdrawal of the holding of abandonment under 37 C.F.R. §1.181.

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[7]

Petitioner failed to file timely the instant petition for consideration under 37 C.F.R. §1.181.

As to Allegations
of Unavoidable Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(a) are the petition and fee, a showing of unavoidable 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 as to a petition under 37 C.F.R. §1.137(a).

---

[3] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[7] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

CONCLUSION

The petition:

- under 37 C.F.R. §1.137(a) hereby is **granted** and petition fee ($500.00) is charged as authorized to Deposit Account 50-0393;
- as considered under 37 C.F.R. §1.181 is **dismissed**; and
- under 37 C.F.R. §1.137(b) is **dismissed as moot**.

The instant file is released to Technology Center 2800 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
P.O. Box 1450
Alexandria, VA 22313-1450
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RANDOLPH TED APPLE
MORRISON & FOERSTER LLP
755 PAGE MILL ROAD
PALO ALTO, CA 94304-1018

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JUN 16 2006

OFFICE OF PETITIONS

In re Application of :

Juergen Schmitz et al :
Application No. 10/150,440 :
Filed: May 17, 2002 :
Attorney Docket No. 022370-000810US :

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 July 6, 2004.

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

A review of the file record indicates that the power of attorney to Gladys H. Monroy, along with all of the other prior attorneys associated with the present application has been revoked by the assignee of the patent application filed on December 8, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant/assignee or the current attorneys of record.

This application is being referred to Technology Center AU 1644 to consider the Response filed April 21, 2006.

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

Conferee:

cc:

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

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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL MN 55133-3427

In re Application of
Wald et al.
Application No.10/150,473
Filed: May 17, 2002
Title of Invention: Membrane Electrode Assembly with Compression Control Gasket

ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed August 20, 2006 and supplemented on August 23, 2006.

This above-identified application became abandoned for failure to file a proper reply to the final Office Action of February 17, 2006. A three month extension of time was obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on August 18, 2006. A Notice of Abandonment was mailed on August 29, 2006.

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

Pursuant to petitioner's request deposit account 13-3723 will be charged the $1500 petition to revive fee.

The Request for Continued Examination (RCE), and amendment will be forwarded to Technology Center 1700 for further processing.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8704

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MAR 3 1 2008

In re Application of :

LAWRENCE, David :
Application No. 10/150,476 : DECISION ON PETITION
Filed: May 17, 2002 : TO WITHDRAW
Attorney Docket No. **01-1074** : 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 **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 Laurence Rogers on behalf of all attorneys of record who are associated with customer No. 64558. All attorneys/agents associated with the Customer Number 64558 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed November 29, 2007 that requires a reply from the applicant.

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

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **DAVID LAWRECE**
67 WALL STREET
SUITE 2411
NEW YORK, NY 10005

cc: **DEAN P. ALDERUCCI**
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK, NY 10022

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: 16

STROOCK & STROOCK
& LAVAN LLP
180 MAIDEN LANE
NEW YORK NY 10038

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JUN 19 2006

OFFICE OF PETITIONS

In re Application of:
Sakai, et al.
Patent No.: 6,945,641
Issue Date: 20 September, 2005
Application No. 10/150,479
Filed: 17 May, 2002
Attorney Docket No.: 448563/0208 (LR:DLS)

ON PETITION

This is a decision on the request filed on 20 April, 2006, under 37 C.F.R. §3.81 wherein Petitioner seeks the have the Office accept the correction of the instant patent to reflect issuance in the name of the assignee, and considered under 37 C.F.R. §1.323 to correct Applicant/Petitioner's error in the issuance of the patent to the Assignee under 37 C.F.R. §1.183 (for waiver) and 37 C.F.R. §3.81.

The petition 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. §§1.183, 1.323, 3.81."

(2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

As is evident from the caption, above, the instant application:

- was filed on 17 May, 2002; and
- issued as a patent on 20 September, 2005.

Petitioner has failed to provide to required data–which may include the assignment recordation data. In this particular case, the assignment data of record indicates an assignment as a security interest recorded in January 2004 and not released until October 2005, which date was after the date of issue of the instant application as the instant patent. The listed correspondent therein was/is: TROUTMAN SANDERS LLP RYAN S. SCHNEIDER BANK OF AMERICA PLAZA, 600 PEACHTREE STREET, NE. SUITE 5200 ATLANTA, GA 30308-2216, whom Petitioner may wish to contact in this regard.

The requirements as to a Certificate of Correction are set forth at under 37 C.F.R. §1.323 to correct Applicant/Petitioner's error in the issuance of the patent to the Assignee under 37 C.F.R. §1.183.

Petitioner may also consult the commentary at MPEP §§1480 - 1485.

The instant petition is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:[1]

By mail: Commissioner for Patents[2]
P.O. Box 1450
Alexandria, VA 22313-1450

[1] On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. The old FAX number no longer is in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

[2] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

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

The instant application is released to IFW Files Repository.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JJGJr: 07-06

Paper No: ___

STROOCK & STROOCK
& LAVAN LLP
180 MAIDEN LANE
NEW YORK NY 10038

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JUL 24 2006
OFFICE OF PETITIONS

In re Application of:	:	
Sakai, et al.	:	
Patent No.: 6,945,641	:	
Issue Date: 20 September, 2005	:	
Application No. 10/150,479	:	ON PETITION
Filed: 17 May, 2002	:	
Attorney Docket No.: 448563/0208 (LR:DLS)	:	

This is a decision on the request filed on 20 April, 2006, under 37 C.F.R. §3.81 wherein Petitioner seeks the have the Office accept the correction of the instant patent to reflect issuance in the name of the assignee, and considered under 37 C.F.R. §1.323 to correct Applicant/Petitioner's error in the issuance of the patent to the Assignee under 37 C.F.R. §1.183 (for waiver) and 37 C.F.R. §3.81.

The petition is **GRANTED**.

BACKGROUND

As is evident from the caption, above, the instant application:

- was filed on 17 May, 2002; and
- issued as a patent on 20 September, 2005.

In the original petition it appeared that a document–to wit: a security instrument–had been improvidently and erroneously filed into the assignment record of the instant application/patent by a third party. However, the record upon that review was unclear. And Petitioner was instructed additional required data–which may include the assignment recordation data.[1]

The requirements as to a Certificate of Correction are set forth at under 37 C.F.R. §1.323 to correct Applicant/Petitioner's error in the issuance of the patent to the Assignee under 37 C.F.R. §1.183. (Petitioners may also consult the commentary at MPEP §§1480 - 1485.)

Petitioner has demonstrated that the assignment was timely filed and recorded (Reel/Frame 013173/0300) prior to issue, and that the subsequent assignment in the form of a security interest was erroneously filed into the record of this application/patent.

The file is being forwarded to the Certificate of Correction Branch for issuance of the requested Certificate of Correction in due course consistent with the recorded assignment to reflect issuance to Assignee **Seiko Epson Corporation**, [Tokyo, JP], the substance of which was filed herein.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[1] In this particular case, the assignment data of record indicated at the time of the original decision in this matter that an assignment had been recorded as a security interest in January 2004 and not released until October 2005, which date was after the date of issue of the instant application as the instant patent. Petitioner was provided with the information on the listed correspondent therein was/is: TROUTMAN SANDERS LLP RYAN S. SCHNEIDER BANK OF AMERICA PLAZA, 600 PEACHTREE STREET, NE. SUITE 5200 ATLANTA, GA 30308-2216, and apparently Petitioner was in contact with that office in this regard.

UNITED STATES PATENT AND TRADEMARK OFFICE

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EITAN, PEARL, LATZER & COHEN ZEDEK LLP
10 ROCKEFELLER PLAZA, SUITE 1001
NEW YORK, NY 10020

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MAY 20 2005

OFFICE OF PETITIONS

In re Application of :
Refael Bivas :
Application No. 10/150,493 : ON PETITION
Filed: May 20, 2002 :
Attorney Docket No. P-5036-US :

This is a decision on the petition under 37 CFR 1.137(b), filed November 8, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 31, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 1, 2004.

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

The application matter is being referred to Technology Center 3600, Art Unit 3661 for further processing.

Retta Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THE HECKER LAW GROUP
1925 CENTURY PARK EAST
SUITE 2300
LOS ANGELES, CA 90067

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OCT 1 5 2002

OFFICE OF PETITIONS

In re Application of :
Patrick Gates et al :
Application No. 10/150,494 : ON PETITION
Filed: May 16, 2002 :
Attorney Docket No. :
10010.1077CPAC/P2379CPAC

This is in response to the communication filed August 27, 2002.

The instant application was filed without the basic filing fee and an executed oath or declaration by all the named inventors. Accordingly, on June 21, 2002, the U.S. Patent and Trademark Office mailed a Notice to File Missing Parts of Nonprovisional Application requiring the submission of the $740 basic filing fee, an executed oath or declaration by inventor Craig Federighi, and a $130 surcharge for their late filing.

In reply, on August 27, 2002, applicant submitted the $740 basic filing fee, the $130 surcharge fee, and a copy of a petition under 37 CFR 1.47(a) and the decision granting the petition in parent Application No. 09/309,246.

37 CFR 1.63(d)(3) states:

> Where the executed oath or declaration of which a copy is submitted for a continuation or divisional application was originally filed in a prior application accorded status under § 1.47, the copy of the executed oath or declaration for such prior application must be accompanied by:
>
> (i) A copy of the decision granting a petition to accord § 1.47 status to the prior application, unless all inventors or legal

representatives have filed an oath or declaration to join in an application accorded status under § 1.47 of which the continuation or divisional application claims a benefit under 35 U.S.C. 120, 121, or 365(c).

The application was not accompanied by a copy of the decision granting the petition under 37 CFR 1.47(a) in the prior application. In view of the communication received on August 27, 2002 submitting a copy of the decision granting 37 CFR 1.47(a) status in the prior application, the above-identified application and papers are now in compliance with 37 CFR 1.47(a). This application is hereby accorded rule 1.47(a) status. As provided in 37 CFR 1.47(c), no notice of this application's filing will be forwarded to the nonsigning inventor nor will such notice be published in the Official Gazette[1] since notice regarding the filing of the prior application was given to the nonsigning inventor.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-8680.

This application is being returned to Technology Center AU 2177 for examination in due course.

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

[1] Note Federal Register, Vol. 65, No. 175; Friday, September 8, 2000.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 6

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THE HECKER LAW GROUP

THE HECKER LAW GROUP
1925 CENTURY PARK EAST
SUITE 2300
LOS ANGELES, CA 90067

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OFFICE OF PETITIONS

In re Application of :
Patrick Gates et al :
Application No. 10/150,494 : ON PETITION
Filed: May 16, 2002 :
Attorney Docket No. :
10010.1077CPAC/P2379CPAC

This is in response to the communication filed August 27, 2002.

The instant application was filed without the basic filing fee and an executed oath or declaration by all the named inventors. Accordingly, on June 21, 2002, the U.S. Patent and Trademark Office mailed a Notice to File Missing Parts of Nonprovisional Application requiring the submission of the $740 basic filing fee, an executed oath or declaration by inventor Craig Federighi, and a $130 surcharge for their late filing.

In reply, on August 27, 2002, applicant submitted the $740 basic filing fee, the $130 surcharge fee, and a copy of a petition under 37 CFR 1.47(a) and the decision granting the petition in parent Application No. 09/309,246.

37 CFR 1.63(d)(3) states:

> Where the executed oath or declaration of which a copy is submitted for a continuation or divisional application was originally filed in a prior application accorded status under § 1.47, the copy of the executed oath or declaration for such prior application must be accompanied by:
>
> (i) A copy of the decision granting a petition to accord § 1.47 status to the prior application, unless all inventors or legal

representatives have filed an oath or declaration to join in an application accorded status under § 1.47 of which the continuation or divisional application claims a benefit under 35 U.S.C. 120, 121, or 365(c).

The application was not accompanied by a copy of the decision granting the petition under 37 CFR 1.47(a) in the prior application. In view of the communication received on August 27, 2002 submitting a copy of the decision granting 37 CFR 1.47(a) status in the prior application, the above-identified application and papers are now in compliance with 37 CFR 1.47(a). This application is hereby accorded rule 1.47(a) status. As provided in 37 CFR 1.47(c), no notice of this application's filing will be forwarded to the nonsigning inventor nor will such notice be published in the Official Gazette[1] since notice regarding the filing of the prior application was given to the nonsigning inventor.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-8680.

This application is being returned to Technology Center AU 2177 for examination in due course.

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

[1] Note Federal Register, Vol. 65, No. 175; Friday, September 8, 2000.

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Paper No. 9

STUART RUDOLER LLC
ATTN : DOCKET CLERK
2 BALA PLAZA, SUITE 300
BALA CYNWYD, PA 19004

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SEP 2 1 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
James B. Van Bokkelen, et al. :
Application No. 10/150,499 :
Filed: May 17, 2002 :
Attorney Docket No. SAND-008 :

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

The petition is **GRANTED.**

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

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

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

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

Retta Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

Richard B. Preiss
Stoel Rives LLP
Suite 2600
900 SW Fifth Avenue
Portland, OR 97204

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FEB 07 2003

OFFICE OF PETITIONS

In re Application of
Bierhuizen, et al.
Application No. 10/150,527
Filed: May 17, 2002
Atty. Dkt. No.: 20030/101:1 USA
For: SINGLE-PATH COLOR VIDEO PROJECTION SYSTEMS EMPLOYING REFLECTIVE LIQUID CRYSTAL DISPLAY DEVICES

: DECISION GRANTING
: PETITION UNDER 37 CFR
: 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed December 26, 2002.

The petition is **GRANTED**.

Petitioner has shown that inventor Benny S. Svardal has refused to join in the filing of the above-identified application after having been presented with the application papers.

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

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

The required petition fee of $130.00 as been charged to Deposit Account No. 19-4455.

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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BENNY S. SVARDAL
UTSIKTEN 19A
N-1604
FREDRIKSTAD, NORWAY

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FEB 0 7 2003

OFFICE OF PETITIONS

In re Application of
Bierhuizen, et al.
Application No. 10/150,527
Filed: May 17, 2002
Atty. Dkt. No.: 20030/101:1 USA
For: SINGLE-PATH COLOR VIDEO PROJECTION SYSTEMS EMPLOYING REFLECTIVE LIQUID CRYSTAL DISPLAY DEVICES

LETTER

Dear Sir:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0310. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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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KOLISCH, HARTWELL, DICKINSON,
MCCORMACK & HEUSER
200 PACIFIC BUILDING
520 SW YAMHILL STREET
PORTLAND OR 97204

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JUL 25 2005

OFFICE OF PETITIONS

In re Application of :
David A. Hill :
Application No. 10/150,544 : DECISION GRANTING PETITION
Filed: May 16, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. HII 307B :

This is a decision on the petition under 37 CFR 1.137(b), filed May 18, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply of an RCE filed February 25, 2005 and the papers filed May 3, 2005; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to Office action of 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 1733.

Karen Creasy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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TEKTRONIX, INC.
14150 S.W. KARL BRAUN DRIVE
P.O. BOX 500 (50-LAW)
BEAVERTON, OR 97077-0001

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OFFICE OF PETITIONS

In re Application of :
Ward, et al. :
Application No. 10/150,558 : ON PETITION
Filed: May 16, 2002 :
Attorney Docket No. 7218-US1 :

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee and publication fee, on or before April 29, 2004. Accordingly, this application became abandoned on April 30, 2004.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER, EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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JUL 24 2009

OFFICE OF PETITIONS

In re Application of :
Thea A. WILKINS :
Application No. 10/150,559 : NOTICE UNDER
Filed: May 17, 2002 : 37 CFR 1.28(c)
Attorney Docket No. **02307O-116500US** :

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.

This application became abandoned for failure to timely respond to the Office action mailed on May 17, 2004.

Inquiries related to this communication should be directed to the undersigned at (571) 272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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#9

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DELPHI TECHNOLOGIES, INC.
M/C 480-410-202
PO BOX 5052
TROY MI 48007

MAILED
FROM DIRECTORS OFFICE

NOV 0 9 2005

TECHNOLOGY CENTER 3600

In re Application of :
Stephanie L. Dunkle, et al. :
Application No. 10/150,565 :
Filed: May 17, 2002 :
For: AIR BAG CUSHION INCLUDING BREAK-AWAY TETHERS :

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicants' petition to withdrawal the holding of abandonment, filed on October 21, 2004 in the United States Patent and Trademark Office.

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

☐ Postcard receipt being dated_____.

☒ USPTO return facsimile receipt dated January 16, 2004, which identifies the application by serial number and the type of Response that was filed on that date.

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

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

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

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

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

RAR/rwg: 10/06/05

Randolph A. Reese
Special Programs Examiner
Group 3600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/19/06

TO SPE OF : ART UNIT 3673

SUBJECT : Request for Certificate of Correction on Patent No.: 6978499

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:

Uncontested correction of inventorship

SPE

3673
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-145

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OFFICE OF THE DIRECTOR
TC 3600

ROPES & GRAY LLP
One International Place
Boston, MA 02110-2624

In re application of
Ruth B. Grover et al
Application No. 10/150,576 : DECISION ON REQUEST
Filed: May 17, 2002 : FOR WITHDRAWAL OF
For: METHOD AND SYSTEM FOR : ATTORNEY
FURNISHING AN ON-LINE QUOTE
FOR AN INSURANCE PRODUCT

This is a decision on the request filed on August 25, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**

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

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

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

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

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition A) above.

As to condition A), the attorneys listed in the request (Customer Number 27510) do not correspond with those named in the Power of Attorney in the declaration, thereby creating confusion as to who is withdrawing. The original Power of Attorney appointed several attorneys. Of these attorneys, Richard Peterson and A. Jose Cortina are not associated with Customer No. 27510. To alleviate this problem, it is suggested that the request be resubmitted and that such request specifically state that the signing attorney is signing on behalf of all attorneys of record in this application.

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

SNM/pav: 11/03/04

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WYETH
PATENT LAW GROUP
5 GIRALDA FARMS
MADISON, NJ 07940

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OFFICE OF PETITIONS

In re Application of	:	
Hsien-Jue Chu, et al.	:	
Application No. 10/150,597	:	ON PETITION
Filed: May 17, 2002	:	
Attorney Docket No. AM100249 P1	:	

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed December 23, 2003, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned at midnight on January 23, 2004.

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

The application matter is being referred to Technology Center 1600, Art Unit 1645 for further processing.

Retta Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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SNELL & WILMER LLP (OC)
600 ANTON BOULEVARD
SUITE 1400
COSTA MESA CA 92626

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JUN 21 2007

OFFICE OF PETITIONS

In re Application of :
Ronald R. Kelly, et al. :
Application No. 10/150,598 : DECISION ON PETITION
Filed: May 17, 2002 :
Attorney Docket No. 42631-0200 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 7, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed January 27, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 28, 2007.

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

Telephone inquiries concerning this decision should be directed to April Wise at (571) 272-1642.

This application is being referred to Technology Center AU3651 for appropriate action by the Examiner in the normal course of business on the reply received March 7, 2007.

Irvin Dingle
Petitions Examiner
Office of Petitions

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JOHN A. ARTZ
ARTZ & ARTZ, P.C.
SUITE 250
28333 TELEGRAPH ROAD
SOUTHFIELD MI 48034

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SEP 1 6 2004

OFFICE OF PETITIONS

In re Application of	:	
Herbert W. Reynolds	:	
Application No. 10/150,605	:	ON PETITION
Filed: May 17, 2002	:	
Attorney Docket No. ML 0108 PA	:	

This is a decision on the petition, filed September 7, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on August 13, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

The examiner of Technology Center AU 3727 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : September 16, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of **Application No. 10/150,605**

Applicant(s) : Herbert W. Reynolds et al
Application No. : 10/150,605
Filed : May 17, 2002

The above-identified application has been assigned Patent No. 6,793,086 and an issue date of September 21, 2004.

It is hereby directed that this application be withdrawn from issue at the request of the applicant. Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of September 21, 2004:

"All reference to Patent No. 6,793,086 to Herbert W. Reynolds et al of North Carolina for EXPLOSION RESISTANT WASTE CONTAINER appearing in the Official Gazette of September 21, 2004 should be deleted since no patent was granted."

Karen Creasy

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

cc: Paul Harrison; Crystal Park 3, Suite 441 (FAX-703-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara K. Greene, PK3-910

SEP 0 7 2004
PATENT & TRADEMARK OFFICE

10

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Herbert W. Reynolds — Group Art Unit: 3727

Serial No.: 10/150,605 — Examiner: Joseph Man Moy

Filed: May 17, 2002

For: EXPLOSION RESISTANT WASTE CONTAINER

Attorney Docket No: ML 0108 PUS

I hereby certify that this correspondence is being transmitted via first class mail to: United States Patent and Trademark Office, Mail Stop Petitions, P.O. Box 1450, Alexandria, VA 22313-1450 on:

9/2/2004
Date of Deposit

Karen A. Hoge
Signature

PETITION FOR WITHDRAWAL FROM ISSUE TO PERMIT CONSIDERATION OF AN INFORMATION DISCLOSURE STATEMENT

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

Applicant hereby requests that the present case be withdrawn from issue. The issue fee on this case was paid on August 13, 2004. The request for withdrawal from issue is being made to consider a request for continuation examination under §1.114 to consider new art.

The documents were recently discovered by the Applicant. Applicant believes that the documents should be considered in the present application and are citing them out of abundance of caution and to fully comply with the duty of candor. Applicant therefore respectfully request that this case be withdrawn from issue so that these documents may be considered.

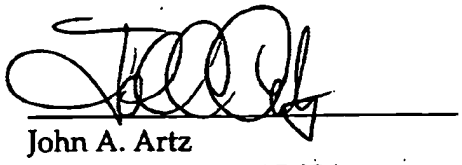
A Request for Continued Examination (RCE) is being filed simultaneously herewith in order for the documents to be fully considered.

09/16/2004 AKELLEY 00000006 500476 10150605
01 FC:1460 130.00 DA

The Commissioner is authorized to charge any fees, which may be required, or credit overpayment to Account No. 50-0476.

Respectfully submitted,

ARTZ & ARTZ, P.C.



John A. Artz
Registration No. 25,824
28333 Telegraph Road, Ste. 250
Southfield, MI 48034
(248) 223-9500

Date: August 30, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Paper No. 11

Alfred W. Froebrich, Esq.
Cohen, Pontani, Lieberman & Pavane
551 Fifth Avenue - Suite 1210
New York, NY 10176

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JUL 0 7 2004

OFFICE OF PETITIONS

In re Application of :
David R. DePiazza, et. al. :
Application No. 10/150,614 : ON PETITION
Filed: May 17, 2002 :
Attorney Docket No. 4452-638 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 16, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 4, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight September 4, 2003.

In response, petitioner submitted with the instant petition $1,330 for the petition to revive fee, an Amendment, a Power of Attorney with Change of Correspondence Address/Docket Number, and a Statement under 37 CFR 3.73(b).

The petition is **GRANTED**.

The Power of Attorney, Change of Correspondence Address/Docket Number filed June 16, 2004, have been accepted and made of record.

The application file is being forwarded to Technology Center Art Unit 3681 for further review of the Amendment filed with the instant petition.

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

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

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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SERIAL NUMBER	REQUEST DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/150,618	6/20/02	KAZUNORI MASUYAMA, ET AL	16787-06199

Title:
FAULT CONTAINMENT AND ERROR HANDLING IN A PARTITIONED SYSTEM WITH SHARED RESOURCES

Art Unit	Paper Number

Correspondence Address:
RIMMA BUDNITSKAYA
FENWICK & WEST LLP
275 BATTERY ST.,
SUITE 1500
SAN FRANCISCO, CA. 94111

Licensee under 35 U.S.C. 184 is hereby granted to file in any foreign country a patent application and any amendments thereto corresponding to the subject matter of this U.S. application identified above and/or any material accompanying the petition. This license is conditioned upon modification of any applicable secrecy order and is subject to revocation without notice.

License Number: 529,081

Grant Date: 21-Jun-02

Approved:

for Commissioner of Patents and Trademar

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This license is to be retained by the licensee and may be used at anytime on or after the date thereof. This license is not retroactive unless specifically indicated.

The grant of this license does not in any way lesson the responsibility of the licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations, especially with respecct to certain countries, of other agencies, particularly the Department of the Treasury; Office of Munitions Control, Department of State (with respect to Arms, Munitions and Implements of War); the Bureau of Trade Regulation, Office of Export Adminstration, Department of Commerce; and the Department of Energy.

LICENSE FOR FOREIGN FILING

[Title 35, United States Code (1952) Sections 184, 185, 186]

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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

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DEC 17 2007

OFFICE OF PETITIONS

In re Application of :
MASUYAMA, et al. :
Application No. 10/150,618 : DECISION GRANTING PETITION
Filed: May 17, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 16787-06199 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 12, 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 November 16, 2007 ***cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

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

This application is being referred to Technology Center AU 2145 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and information disclosure statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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Paper No. 6

WELLS ST. JOHN P.S.
601 W. First Avenue, Suite 1300
Spokane, WA 99201

APR 2 8 2005

In re Application of:
BEAMAN *et al.*
Serial No.: 10/150,623
Filed: May 17, 2002
Attorney Docket No.: **MI22-1994**

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a decision on the petition filed December 03, 2003, to withdraw the holding of abandonment in the above-identified application under 37 C.F.R. § 1.181. No fee is required.

The petition is **GRANTED.**

The application was held abandoned for failure to timely file a response to the Office action mailed on April 23, 2003. A Notice of Abandonment was mailed on November 04, 2003.

Petitioner asserts that on June 23, 2003, a response was timely filed in the above-identified application. To support this assertion, petitioner has submitted a copy of a 7 page response bearing a certificate under 37 CFR 1.8(a) showing a date of transmission of June 23, 2003, a copy of an "Auto-Reply Facsimile Transmission" report from the USPTO which acknowledges satisfactory facsimile transmission of 7 pages on June 23, 2003, and a statement from David G. Latwesen, to the previous timely transmission of the response to the USPTO.

A review of the application file record reveals that the above-identified response is not of record in the application file and cannot be located. However, 37 CFR § 1.8(b) provides for accepting a correspondence as being timely filed if it was mailed or transmitted in accordance with 37 CFR § 1.8(a), and is reproduced below:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence: (1) informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence; (2) supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and (3) includes a statement which attests on a personal knowledge basis or to the

satisfaction of the 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.

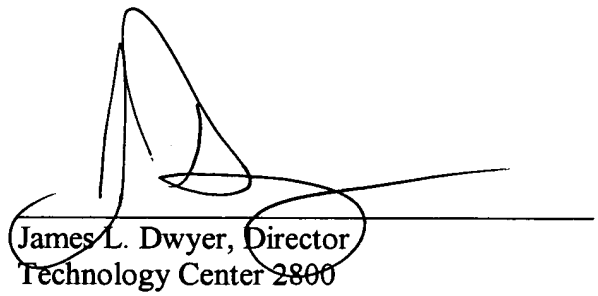
The petition, meets the conditions of 37 CFR 1.8(b) to establish the previous timely filing of the response. Accordingly, the petition is **granted.**

For the above stated reason, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The copy of the response submitted on December 03, 2003, is accepted since the response originally submitted was apparently lost.

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

Inquiries regarding this decision should be directed to Clayton E. LaBalle at (571) 272-1594.



James L. Dwyer, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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JUN 16 2008

OFFICE OF PETITIONS

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

In re Application of :
Beaman, et al. : DECISION ON PETITION
Application No. 10/150,623 :
Filed: May 17, 2002 :
Dkt. No.: MI22-1994 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed February 14, 2008.

The Notice of Abandonment, mailed February 8, 2008, indicates that the application is abandoned for failure to timely submit a proper reply to the non-final Office action mailed July 26, 2007. The non-final Office action set a three month shortened statutory period of time for reply.

Petitioners assert that a response to the non-final Office action was timely filed October 26, 2007. Petitioners have included a copy of the reply as well as a copy of an acknowledgement receipt to establish the timely submission of the reply to the non-final Office action.

The original reply referenced by petitioners has been located in the application file.

In view of the evidence thereof, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to Technology Center 2800 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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

Mail Date: 04/21/2010

Applicant	: Kevin L. Beaman	: DECISION ON REQUEST FOR
Patent Number	: 7651910	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/150,623	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/17/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **568** 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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J.C. PATENTS
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IRVINE CA 92618

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JAN 10 2006

OFFICE OF PETITIONS

In re Application of	:	
Neev, Joseph	:	
Application No. 10/150,632	:	ON PETITION
Filed: May 17, 2002	:	
Attorney Docket No. YBEAM-05	:	

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

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (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.

A copy of the Notice of Acceptance of Power of Attorney is enclosed.

This matter is being referred to Technology Center 3700 for further examination on the merits.

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

Liana Chase
Petitions Examiner
Office of Petitions

Enclosure: Notice of Acceptance of Power of Attorney (2 pages)

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MAR 18 2004

STEPHEN B. MAEBIUS
FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of :
David M. Goldenberg et al :
Serial No.: 10/150,654 : WITHDRAWAL OF ATTORNEY
Filed: May 17, 2002 :
Attorney Docket No.: 018733-1085 :

This is in response to applicants' attorneys' request, filed February 26, 2004, to withdraw from representation in the above identified application.

37 CFR 10.40 Withdrawal from employment.
(b) Mandatory withdrawal . A practitioner representing a client before the Office shall withdraw from employment if:
(1) The practitioner knows or it is obvious that the client is bringing a legal action, commencing a proceeding before the Office, conducting a defense, or asserting a position in litigation or any proceeding pending before the Office, or is otherwise having steps taken for the client, merely for the purpose of harassing or maliciously injuring any person;
(2) The practitioner knows or it is obvious that the practitioner's continued employment will result in violation of a Disciplinary Rule;
(3) The practitioner's mental or physical condition renders it unreasonably difficult for the practitioner to carry out the employment effectively; or
(4) The practitioner is discharged by the client.
(c) Permissive withdrawal. If paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matters pending before the Office unless such request or such withdrawal is because:
(1) The petitioner's client:
(i) Insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law;
(ii) Personally seeks to pursue an illegal course of conduct;
(iii) Insists that the practitioner pursue a course of conduct that is illegal or that is prohibited under a Disciplinary Rule;
(iv) By other conduct renders it unreasonably difficult for the practitioner to carry out the employment effectively;
(v) Insists, in a matter not pending before a tribunal, that the practitioner engage in conduct that is contrary to the judgment and advice of the practitioner but not prohibited under the Disciplinary Rule; or
(vi) Has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time or has failed to honor an agreement to pay a retainer in advance of the performance of legal services.
(2) The practitioner's continued employment is likely to result in a violation of a Disciplinary Rule;
(3) The practitioner's inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal;
(4) The practitioner's mental or physical condition renders it difficult for the practitioner to carry out the employment effectively;
(5) The practitioner's client knowingly and freely assents to termination of the employment; or

(6) The practitioner believes in good faith, in a proceeding pending before the Office, that the Office will find the existence of other good cause for withdrawal.

Applicants' attorney has provided no reason for withdrawal, as required.

The request to withdraw is **DISMISSED**.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office facsimile number.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 7-25-08 Paper No.: _____

TO SPE OF : ART UNIT 1644

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/156154 Patent No.: 7138403

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 Inventors be approved

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

Ennis Young
Certificates of Correction Branch
703-308-9390 ext. 117

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

Ellen B. O'Hara 1644
SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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Washington, D.C. 20231
www.uspto.gov
DIW 02-02

Paper No. 11 #2

MORRIS E COHEN
LEVISOHN LERNER BERGER & LANGSAM
757 THIRD AVENUE
SUITE 2400
NEW YORK, NY 10017

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FEB 0 6 2002

OFFICE OF PETITIONS

In re Application of	:	
Andrien, Banks, and Boyle	:	
Application No. 09/532,724	:	DECISION ACCORDING STATUS
Filed: 22 March, 2000	:	UNDER 37 CFR 1.47(a)
Att'y Docket No. 840.081-US	:	

This is in response to the petition filed under 37 CFR 1.47(a) on 30 October, 2000. The Office apologizes for the delay in responding to this petition and regrets any inconvenience caused petitioners.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, J. Fred Banks, has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, petitioners have shown that a copy of the application papers were sent, via Federal Express, to the non-signing inventor by petitioners' registered patent attorney, Morris E. Cohen, but the non-signing inventor failed to return an executed 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.

Although the "Added Page to Combined Declaration" states that the petition fee of $130.00 accompanies the present petition. The petition fee was not located among the papers received with the petition on 30 October, 2000. In accordance with the authorization provided with the Small Entity status statement filed on 29 August, 2001, the petition fee will be charged to counsel's deposit account, No. 02-2105

The application is being forwarded to the Publishing Division to await petitioners' response to the Notice of Allowance mailed on 12 December, 2001.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

Douglas I. Wood
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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THOMAS B. HAVERSTOCK
HAVERSTOCK & OWENS LLP
162 NORTH WOLFE ROAD
SUNNYVALE CA 94086

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NOV 0 8 2006

OFFICE OF PETITIONS

In re Application of :
Peter Schmidt et al. :
Application No. 10/150,700 : DECISION ACCORDING STATUS
Filed: May 17, 2002 : UNDER 37 CFR 1.47(a)
Attorney Docket No. HELLO-08700 :

This is in response to the petition filed May 17, 2002 under 37 CFR 1.47(a).

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

The above-identified application was filed on May 17, 2002, naming Peter Schmidt, Jeffrey S. Jones, John Magnasco, Ron Van Thiel and Paul Espinola as joint inventors. The oath or declaration filed with the application was signed by all joint inventors except Paul Espinola. The instant petition filed with the application, seeks status under 37 CFR 1.47, and claims that joint inventor Espinola refuses to join in the application.

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) set forth above.

The petition bears proof that the application papers were forwarded to and received by Mr. Espinola and that to date, Mr. Espinola has not returned an executed copy of the oath or declaration.

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

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

This matter is being referred to the Publishing Division to await payment of the issue fee.

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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THOMAS B. HAVERSTOCK
HAVERSTOCK & OWENS LLP
162 NORTH WOLFE ROAD
SUNNYVALE CA 94086

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OFFICE OF PETITIONS

In re Application of :
Peter Schmidt et al. :
Application No. 10/150,700 : DECISION ACCORDING STATUS
Filed: May 17, 2002 : UNDER 37 CFR 1.47(a)
Attorney Docket No. HELLO-08700 :

This is in response to the petition filed May 17, 2002 under 37 CFR 1.47(a).

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

The above-identified application was filed on May 17, 2002, naming Peter Schmidt, Jeffrey S. Jones, John Magnasco, Ron Van Thiel and Paul Espinola as joint inventors. The oath or declaration filed with the application was signed by all joint inventors except Paul Espinola. The instant petition filed with the application, seeks status under 37 CFR 1.47, and claims that joint inventor Espinola refuses to join in the application.

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) set forth above.

The petition bears proof that the application papers were forwarded to and received by Mr. Espinola and that to date, Mr. Espinola has not returned an executed copy of the oath or declaration.

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

Thus, as provided in Rule 1.47c, 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.

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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
10/150,702	05/17/2002	1637	370	BTI2 01103801(USP2)US	30	20	3

CONFIRMATION NO. 3628

Donald Bolle
Burstein Technologies
163 Technology Drive
Irvine, CA 92618

CORRECTED FILING RECEIPT

OC000000011597033

Date Mailed: 01/02/2004

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)

Martina Elisabeth Werner, Aliso Viejo, CA;
Ramoncito Magpantay Valencia, Aliso Viejo, CA;
John Francis Gordon, Irvine, CA;

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/292,110 05/18/2001
and claims benefit of 60/313,917 08/21/2001

Foreign Applications

If Required, Foreign Filing License Granted: 06/27/2002

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Surface assembly for immobilizing DNA capture probes in genetic assays using enzymatic

reactions to generate signal in optical bio-discs and methods relating thereto

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

HOWREY SIMON ARNOLD & WHITE, LLP - OC
301 RAVENSWOOD AVENUE
BOX 34
MENLO PARK, CA 94025

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MAR 29 2005

OFFICE OF PETITIONS

In re Application of :
Stuart I. Smedley, Jerry :
Dennis Wilson and Martin De : DECISION GRANTING PETITION
Tezanos Pinto : UNDER 37 CFR 1.47(a)
Application No. 10/150,745 :
Filed: May 17, 2002
Title: IN-LINE FILTRATION FOR A PARTICLE-BASED ELECTROCHEMICAL POWER SYSTEM

This is in response to the "Petition Under 37 CFR 1.47(a)," filed September 27, 2002. The petition was recently forwarded to this office for consideration.

The petition is **granted**.

Petitioner has shown that the non-signing inventor cannot be found or reached to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being forwarded to Publishing Division.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3228.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MARTIN DE TEZANOS PINTO
2370 RISING GLEN WAY, #103
CARLSBAD, CA 92008

COPY MAILED

MAR 29 2005

OFFICE OF PETITIONS

In re Application of
Stuart I. Smedley, Jerry Dennis Wilson and
Martin De Tezanos Pinto
Application No. 10/150,745
Filed: May 17, 2002
Title: IN-LINE FILTRATION FOR A PARTICLE-BASED ELECTROCHEMICAL POWER SYSTEM

Dear MARTIN DE TEZANOS PINTO:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571)272-3228. Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

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

HOWREY SIMON ARNOLD & WHITE, LLP - OC
301 RAVENSWOOD AVENUE
BOX 34
MENLO PARK, CA 94025

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

KUDIRKA & JOBSE LLP
ONE STATE STREET
SUITE 1510
BOSTON MA 02109

COPY MAILED

AUG 25 2003

OFFICE OF PETITIONS

In re Application of :
Zircher, et al. :
Application No. 10/150,757 :
Filed: May 17, 2002 : DECISION ON PETITION
Attorney Docket No. G0008/7009 :

This is a decision on the petition to revive under 37 CFR 1.137(b), pursuant to 37 CFR 1.137(f), filed August 11, 2003.

The petition is **GRANTED**.

Petitioner states that the instant application is the subject of a PCT international application filed on May 14, 2003. However, the US Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the PCT application.

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

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

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

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

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

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

The previous Request and Certification under 35 USC 122(b)(2)(B)(i) has been rescinded.

The application is being forwarded to Technology Center 2100, Group Art Unit 2153, for examination.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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JUN 0 7 2006

OFFICE OF PETITIONS

KUDIRKA & JOBSE, LLP
ONE STATE STREET
SUITE 800
BOSTON, MA 02109

In re Application of :

William E. Zircher et al :
Application No. 10/150,757 : DECISION ON PETITION
Filed: May 17, 2002 : TO WITHDRAW
Attorney Docket No. M1103.70274US00 : 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 23, 2005.

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

A review of the file record indicates that the power of attorney to Paul E. Kudirka, along with all of the other attorneys associated with Customer No. **21127** has been revoked by the assignee of the patent application on November 7, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant/assignee or the current attorneys of record.

The application will be referred to Technology Center AU 2153 to consider the response filed May 10, 2006.

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

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

WOLF GREENFIELD (Microsoft Corporation)
C/O WOLF, GREENFIELD & SACKS, P.C.
FEDERAL RESERVE PLAZA
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

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ALEXANDRIA, VA 22313-1450
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Paper No. 7

Martha Ann Finnegan, Esq.
Cabot Corporation
157 Concord Road
Billerica, MA 01821

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MAY 27 2003

OFFICE OF PETITIONS

In re Application of
Clancy et al.
Application No. 10/150,761
Filed: May 17, 2002
Attorney Docket No. 02035 (C00698.70144.US)

ON PETITION

This is a decision on the petition filed May 19, 2003, to accord the above-identified application a filing date of May 17, 2002, instead of May 19, 2002.

The petition is **granted**.

37 CFR 1.10(c) states,

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
>
> (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

All of the above requirements have been met. Therefore, the application will be accorded a filing date of May 17, 2002.

No petition fee is due and none has been charged.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a 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.

The file is now being forwarded to the Office of Initial Patent Examination to accord the application a filing date of May 17, 2002.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

cc: Robert Walat, Peter Lando
Wolf, Greenfield & Sacks, PC
600 Atlantic Avenue
Boson, MA 02210-2211

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-47, drawn to a method of making a polymer composition, classified in class 524, subclass 413.

II. Claims 48-50, drawn to a composite with a rough surface, classified in class 428, subclass 141.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions Group I, claims 1-47 and Group II, claims 48-50 are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product as claimed could be made by dispersing the particles with agitation and treating the composite surface by polishing to obtain the desired degree of surface roughness.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by

their different classification, and since the fields of search are not co-extensive, restriction for examination purposes as indicated is proper.

4. During a telephone conversation via voice mail between Examiner William Watkins and Martha Finnegan on 07 August 2003 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-47. Affirmation of this election must be made by applicant in replying to this Office action. Claims 48-50 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

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COOLEY LLP
ATTN: PATENT GROUP
SUITE 1100
777 - 6TH STREET, NW
WASHINGTON DC 20001

MAILED

MAY 27 2010

OFFICE OF PETITIONS

In re Application of :
Mitchell D. Eggers, et al. :
Application No. 10/150,771 : ON PETITION
Filed: May 17, 2002 :
Attorney Docket No. GENV-002/01US :
300805-2009

This is a decision in response to the petition, filed March 26, 2010, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply to the final Office action of September 25, 2009, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on December 26, 2009. This decision precedes the mailing of a Notice of Abandonment. On March 26, 2010, the present petition was filed.

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).

It is noted that the petition did not include a response in the present application to continue prosecution; however, petitioner indicates the reply to the outstanding Office action is in the form of a "continuation application, 12/732,154." The petition is not accompanied by a statement of express abandonment in favor of the filing of the continuation application.

In order to facilitate action, the petition to revive should include reference to the filing of a continuing application *and* a letter of express abandonment, conditional upon the granting of the petition and of a filing date to the continuing application. Nevertheless, in view of the statement that the reply is the filing of a continuation application, the statement will be construed as a request to expressly abandon this application in favor of the continuing application. If this was not the intent of applicant, the Office should be promptly notified.

The petition, as construed, satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuation application under 37 CFR 1.53(b); (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

This application is being revived solely for the purpose of continuity with Application No. 12/732,154 filed on March 25, 2010. As continuity has been established by revival of this application, this application is again abandonment in favor of continuing Application No. 12/732,154.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 13

KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET
SUITE 1600
PORTLAND, OR 97204

In re Application of :
Keefer et al. :
Application No. 10/150,784 :
Filed: May 16, 2002 :
Title of Invention: :
Attorney Docket No.: :
6454-62757 :

COPY MAILED

DEC 17 2003

OFFICE OF PETITIONS

This is a decision on the petition under 37 CFR 1.137(a), filed November 24, 2003, to revive the above-identified application. Applicant alternatively requests revival on the basis of unintentional delay.

The petition under 37 CFR 1.137(a) is **DISMISSED.**

A decision on the alternative request to revive the application under 37 CFR 1.137(b) will be held in abeyance until applicant has had an opportunity to respond to the dismissal under 37 CFR 1.137(a).

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 Notice of Allowance and Issue Fee Due (hereinafter "Notice"), mailed August 11, 2003. The Notice set a non-extendable statutory period for reply of three (3) months. No reply having been received, the above-identified application became abandoned November 12, 2003. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

Petition under 37 CFR 1.137(a) for unavoidable 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), 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 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 items (1) and (3).

Applicant's Assertion

Applicant asserts that a timely reply was filed and received in the Office on November 4, 2003. Applicant asserts that the November 4, 2003 correspondence and issue fee payment were inexplicably returned to Applicant on November 24, 2003. Applicant asserts that, enclosed with the instant petition is the prior-filed issue fee payment.

Analysis

A review of the application file indicates that no copy of the issue fee, putatively filed on November 4, 2003, is contained therein. The issue fee payment filed with the instant petition has been separated from the petition, such that only the transmittal letter and the instant petition have been located in the application file. Applicant should re-submit copies of the original issue fee payment[1].

[1]Applicant is advised that correspondence is considered timely filed if it contains a properly executed certificate of mailing under 37 CFR

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

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

1.8. This Decision, and the decision to hold in abeyance a decision on the petition under 37 CFR 1.137(b), presumes that the issue fee, putatively filed on November 4, 2003, was filed with a certificate of mailing under 37 CFR 1.8.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 13 #15

KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET
SUITE 1600
PORTLAND, OR 97204

COPY MAILED

FEB 13 2004

OFFICE OF PETITIONS

In re Application of :
Keefer et al. :
Application No. 10/150,784 :
Filed: May 16, 2002 :
Title of Invention: :
Attorney Docket No.: :
6454-62757 :

This is a decision on the correspondence filed via facsimile on December 29, 2003, which is being treated as a renewed petition under 37 CFR 1.137(a), to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **granted**.

The above-identified application became abandoned for failure to timely reply to the Notice of Allowance and Issue Fee Due (hereinafter "Notice"), mailed August 11, 2003. The Notice set a non-extendable statutory period for reply of three (3) months. No reply having been received, the above-identified application became abandoned November 12, 2003. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

A petition filed November 24, 2003 under 37 CFR 1.137(a), and alternatively under 37 CFR 1.137b, was filed November 24, 2003. The petition under 37 CFR 1.137(a) was dismissed, and a decision on the petition under 37 CFR 1.137(b) was held in abeyance pending the reply to the dismissal of the petition under 37 CFR 1.137(a), in a Decision mailed December 17, 2003. The Decision required a copy of the Issue Fee Transmittal Form and Certificate of Mailing putatively mailed on November 4, 2003.

Petitioner responds with the instant petition which demonstrates that, despite the exercise of due diligence, the delay in filing the required reply was unavoidable. In support, petitioner resubmitted copies of the above referenced documentation.

The issue fee was received in the Office on November 24, 2003.

A refund of the fee for the petition under 37 CFR 1.137(b) has been credited to deposit account 02-4550 as authorized in the petition filed November 24, 2003.

The application file is being forwarded to Publishing Division for processing into a patent.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/150,799	**02-Aug-02**	**HUGH H. ROWAN**	**H 26724**

Title: IMPROVED PROCESS AND SYSTEM FOR PRODUCING TIRE CORDS

Art Unit	Paper Number

Correspondence Address:
MARGARET S. MILLIKIN
HONEYWELL INTERNATIONAL INC.
15801 WOODS EDGE ROAD
COLONIAL HEIGHTS VA 23836

Please find attached a communication from the Examiner regarding the Petition for Retroactive License under 37 CFR 5.25.

PATENT & TRADEMARK OFFICE
MAILED

AUG 26 2002

LICENSING & REVIEW

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re:	Rowan	:DECISION ON REQUEST
Serial No.:	10/150,799	:UNDER 37 CFR 5.25
Filing date:	May 17, 2002	
Docket No:	H 26724	

Title: IMPROVED PROCESS AND SYSTEM FOR PRODUCING TIRE CORDS

This is a decision on the petition filed on August 2, 2002 for retroactive foreign filing license.

The petition is **DISMISSED** in that the petitioner's statement indicates that a license was not required.

Petitioner states that a provisional application was filed on 5/21/01 which received a foreign filing license on 7/14/01, and that a non-provisional claiming priority to the provisional was filed on 5/17/02 along with a corresponding PCT application (in the US receiving office) on 5/20/02. The subsequently filed applications in Taiwan, Thailand, and Malaysia on 5/21/02 all claim priority to both the provisional and non-provisional applications. Based on the foregoing facts, the foreign filing license of 7/14/01 is believed to cover the applications filed in Taiwan, Thailand, and Malaysia, therefore, another license for foreign filing would be improper and unnecessary.

Yvonne R. Abbott
Patent Examiner
(703) 308-2866

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	REQUEST DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/150,799	**8/2/02**	**HUGH H. ROWAN**	**H 26724**

Title: **IMPROVED PROCESS AND SYSTEM FOR PRODUCING TIRE CORDS**

Art Unit	Paper Number

Correspondence Address:
MARGARET S. MILLIKIN
HONEYWELL INTERNATIONAL INC.
15801 WOODS EDGE ROAD
COLONIAL HEIGHTS VA 23836

Licensee under 35 U.S.C. 184 is hereby granted to file in any foreign country a patent application and any amendments thereto corresponding to the subject matter of this U.S. application identified above and/or any material accompanying the petition. This license is conditioned upon modification of any applicable secrecy order and is subject to revocation without notice.

License Number: 529,344
Grant Date: 22-Aug-02

This license is granted retroactively to the date(s) and the country(s) indicated on the attached decision.

Approved

for Commissioner of Patents and Trademar

This license empowers the filing, the causation and the authorization of the filing of a foreign application or applications on the subject matter identified above, subsequent forwarding of all duplicate and formal papers and the prosecution of such aplication or applications.

This license is granted under 37 CFR 5.15(a).

This license is to be retained by the licensee and may be used at anytime on or after the date thereof. This license is not retroactive unless specifically indicated.

The grant of this license does not in any way lesson the responsibility of the licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations, especially with respecct to certain countries, of other agencies, particularly the Department of the Treasury; Office of Munitions Control, Department of State (with respect to Arms, Munitions and Implements of War); the Bureau of Trade Regulation, Office of Export Adminstration, Department of Commerce; and the Department of Energy.

LICENSE FOR FOREIGN FILING

[Title 35, United States Code (1952) Sections 184, 185, 186]

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JUL 29 2009

OFFICE OF PETITIONS

AT&T LEGAL DEPARTMENT - MB
ATTN: PATENT DOCKETING
ROOM 2A-207
ONE AT&T WAY
BEDMINSTER NJ 07921

In re Application of	:	
McQuaide, et al.	:	
Application No. 10/150,807	:	ON PETITION
Filed: December 19, 2002	:	
Attorney Docket No. 9200-427	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed June 29, 2009.

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

The above-identified application became abandoned for failure to timely file a reply in response to the Notice of Non-Compliant Amendment, mailed November 21, 2008. This Office action set a shortened statutory period for reply of one month. No reply having been received, the application became abandoned on December 22, 2008. A Notice of Abandonment was mailed on June 8, 2009.

With the instant petition, applicant made the proper statement of unintentional delay, paid the petition fee, and submitted the required reply in the form of an Amendment.

The application is being forwarded to Group Art Unit 3692for consideration of the Amendment, filed June 29, 2009.

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

Paper No. 13

IVOR R. ELRIFI, Ph.D., ESQ.
MINTZ LEVIN COHN FERRIS
GLOVSKY AND POPEO P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

COPY MAILED

AUG 2 9 2003

OFFICE OF PETITIONS

In re Application of	:	
Uriel M. Malyankar et al	:	DECISION GRANTING
Application No. 10/150,811	:	PETITION
Filed: May 17, 2002	:	
Attorney Docket No. 15966-675 CIP2 CON1	:	

This is a decision on the paper styled "PETITION TO CHANGE FILING DATE" filed June 16, 2003, requesting that the above-identified application be accorded a filing date of May 17, 2002, rather than the presently accorded filing date of April 7, 2003.

A review of the original application papers shows that the papers were stamped in the U.S. Patent and Trademark Office (PTO) with a May 17, 2002 "Office Date" stamp. Initial Patent Examination Division found the original papers to be complete for filing date purposes. Therefore, the filing date of the application is the date shown on the "Office Date" stamp. See MPEP 505. Obviously, the April 7, 2003 filing date shown on applicants' filing receipt is a typographical error.

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 for correction of the filing date to May 17, 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

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

Ivor R. Elrifi, Esq.
MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C.
One Financial Center
Boston, MA 02111

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FEB 25 2003

OFFICE OF PETITIONS

In re Application of Kumud Majumder Application No. 10/150,813 Filed: May 17, 2002 Attorney Docket No. 15966-675 CIP1 CON2 Title: NOVEL POLYPEPTIDES AND NUCLEIC ACIDS ENCODING SAME	DECISION ACCORDING STATUS UNDER 37 C.F.R. § 1.47(b)

This is in response to the "Petition for Filing Patent Application under 37 C.F.R. § 1.47(b)," filed December 3, 2002.

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

The above-identified application was filed on May 17, 2002, with an unexecuted declaration naming Kumud Majumder as sole inventor. Accordingly, on June 27, 2002, applicant was mailed a "Notice to File Missing Parts of Application," requiring an executed oath or declaration, and a surcharge for its late filing. This Notice set a period for reply of two months, with extensions of time obtainable under § 1.136(a).

With the instant petition, petitioner submitted a declaration executed by Christopher McLeod, as agent for assignee CuraGen Corporation, on behalf of non-signing sole inventor Kumud Majumder; and paid the surcharge for late filing. To make this response timely, applicant submitted a petition for extension of the period for response to December 27, 2002 (and petition fee).

Applicant maintains that status under § 1.47(b) is proper because sole inventor Majumder has refused to join in the application. In support thereof, rule 47(b) applicant submits, *inter alia*:

- the employment agreement between inventor Majumder and rule 47(b) applicant CuraGen Corporation;
- a copy of the cover letter dated October 25, 2002, transmitting the application papers to inventor Majumder by certified mail return receipt requested;
- a letter dated November 2, 2002, from inventor Majumder on the subject of signing patent applications and requesting payment for the time spent in processing the documents; and
- the petition signed by patent attorneys Ivor Elrifi and

Christina Karnakis, which sets forth the circumstances of the presentation of the application papers and of the refusal of the inventor to join in the application and includes:

- payment of the petition fee;
- a statement of the last known address of inventor Majumder;
- a statement that inventor Majumder was an employee of assignee CuraGen Corporation at the time the invention was conceived and reduced to practice; and
- a statement that the filing of the application is necessary to preserve the rights of the CuraGen Corporation or to prevent irreparable damage.

The declaration filed December 3, 2002, has been reviewed and found in compliance with §§ 1.63 and 1.64.

Having reviewed the petition, it is concluded that petitioner has met the requirements for acceptance of this declaration under § 1.47(b)[1].

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

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

The application file is being forwarded to the Office of Initial Patent Examination for completion of pre-examination processing. (The Notice mailed June 27, 2002, also required compliance with the requirements of 37 C.F.R. 1.821-1.825).

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

Nancy Johnson
Petitions Attorney
Office of Petitions

---

[1] 37 C.F.R. §1.47(b) requires: (1) an acceptable oath or declaration in compliance with 37 C.F.R. §1.63 and 1.64 or 1.175; (2) the rule 47 applicant must state his or her relationship to the inventor as required by 37 C.F.R. §1.64; (3) proof that the non-signing inventor cannot be found or reached after diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (4) the petition fee; (5) a statement of the last known address of the non-signing inventor; (6) that rule 47 applicant make out a *prima facie* case (i) that the invention has been assigned to him or her or (ii) that the inventor has agreed in writing to assign the invention to him or her or (iii) otherwise demonstrate a proprietary interest in the subject matter of the invention; and (7) rule 47 applicant must prove that the filing of the application is necessary (i) to preserve the rights of the parties or (ii) to prevent irreparable damage.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Washington, D.C. 20231
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DR. KUMUD MAJUMDER
2398 HIGH RIDGE RD.
STAMFORD, CT 06903

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FEB 25 2003

OFFICE OF PETITIONS

In re Application of :
Kumud Majumder :
Application No. 10/150,813 :
Filed: May 17, 2002 : LETTER
Attorney Docket No. 15966-675 CIP1 :
CON2 :
Title: NOVEL POLYPEPTIDES AND :
NUCLEIC ACIDS ENCODING SAME :

Dear Dr. Majumder:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Nancy Johnson
Petitions Attorney
Office of Petitions

Ivor R. Elrifi, Esq.
MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C.
One Financial Center
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WORKMAN NYDEGGER
60 EAST SOUTH TEMPLE
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SALT LAKE CITY UT 84111

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SEP 17 2007

OFFICE OF PETITIONS

In re Application of :
Reynolds, et al. :
Application No. 10/150,824 : DECISION GRANTING PETITION
Filed: May 20, 2002 :
Attorney Docket No. ABOT-002 :

This is a decision on the petition filed January 19, 2007. This matter is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment in the above-identified application.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby GRANTED.

This application was held abandoned February 12, 2005 for failure to timely submit a proper reply to the Office action mailed January 11, 2005. The Office action set a one month statutory period of time for reply. Notice of Abandonment was mailed November 30, 2006.

Petitioners assert that a response to the Office action, a petition for extension of time, a petition to reset the time period for reply, and a request for refund were timely submitted via USPS Express Mail on April 7, 2005 and have provided as proof of mailing a copy of a USPS Express Mail label and a USPP Track/Confirm printout.

It is noted that the USPS Express Mail label lacks a "date-in" in accordance with 37 CFR 1.10(e)(3). However, the UPSPS Track/Confirm printout does establish that the package was received in USPS Express Mail service on April 7, 2005 and delivered to the USPTO on April 8, 2005.

The request for refund submitted April 7, 2005 requested that the time period for response to the Office action be reset because the Office action had been mailed to the wrong correspondence address. As a result of the Office action being mailed to the wrong correspondence address, petitioners were

delayed in receiving the Office action. Petitioners received the Office action from applicants' prior counsel. Petitioners requested that in addition to the time period for response being reset, that the extension of time fee be refunded. Petitioners submitted documents showing that a change of correspondence address was submitted May 5, 2003, prior to the mailing of the Notice.

The arguments and supporting documents submitted by petitioners have been carefully reviewed and found convincing.

The original response has not been located in the official application file. In view of the Office action being mailed to an improper correspondence address, the request for refund is hereby granted.

In view of the evidence presented, the petition to withdraw the holding of abandonment is hereby GRANTED.

The Notice of Abandonment is hereby VACATED and the holding of abandonment is WITHDRAWN.

The application file is being forwarded to Technology Center 3700 for review of the reply Office action submitted April 7, 2005.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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Paper No.

FITZPATRICK CELLA
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NEW YORK NY 10112

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SEP 0 8 2006

OFFICE OF PETITIONS

In re Patent No. 7,006,089	:	DECISION ON REQUEST FOR
Issue Date: February 28, 2006	:	RECONSIDERATION OF
Application No. 10/150,840	:	PATENT TERM ADJUSTMENT
Filed: May 20, 2002	:	
Atty Docket No. 01263.001968.	:	
	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)," filed April 26, 2006. Patentees request that the patent term adjustment under 35 U.S.C. 154(b) be corrected from one hundred ninety-five (195) days to two hundred seventy-five (275) days.

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

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

On February 28, 2006, the application matured into U.S. Patent No. 7,006,089, with a revised patent term adjustment of 195 days. On April 26, 2006, patentees timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 275 days. Patentees dispute the reduction, pursuant to 1.704(c)(10), of 120 days associated with the filing of an Information Disclosure Statement (IDS) on September 21, 2005.

Patentees maintain that the filing of the IDS on September 21, 2005 should not be treated as a failure to engage in reasonable efforts to conclude prosecution on Applicant's part at all, because the information cited in that IDS was all cited, for the first time in any counterpart application, in a Japanese Office Action dated September 2, 2005, that is, within thirty (30) days preceding the filing of the IDS. Patentees state that this fact was presented in the IDS itself.

Further, on petition, patentees state 2 different bases for recalculating the PTA to equal two hundred seventy-five (275) days. First, patentees indicate that instead of the reduction of 120 days for the IDS filed September 21, 2005, there should only be a reduction of 40 days for the IDSs filed January 20, 2006 and February 27, 2006 (given that the patent issued on February 28, 2006 and that these periods of delay pursuant to 1.704(c)(10) overlap). However, in conclusion, patentees request that the reduction of 105 days associated with the IDS filed September 20, 2005 be adjusted to 25 days. It is noted that patentees' basis for this concluding calculation is unclear.

Regardless, the reduction of 120 days is found to be correct. Patentees' arguments have been considered, but not found persuasive. Pursuant to 37 CFR § 1.704(c), 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;

Patentees do not dispute that the IDS was filed after the mailing of the notice of allowance. Moreover, a review of the IDS as filed reveals that it was not accompanied by a § 1.704(d) statement. Patentees are reminded of the specific language of 37 CFR §1.704(d)(*emphasis* added)

> A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that *each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement.* This thirty-day period is not extendable.

Patentees argue that the IDS included a statement of fact that should cause the filing of the IDS not to be considered a failure to engage within the meaning of 1.704(c)(10). However, the statement referenced by patentees is not the §1.704(d) statement quoted above. Nor do patentees make the correct §1.704(d) statement on request for reconsideration. Accordingly, the reduction of 120 days falls squarely within the basis for reduction set forth in 1.704(c)(10)(counting the number of days in the period beginning on September 21, 2005, the date of issuance of the patent, February 28, 2006, the reduction equals the lesser period of four months).

The rules make clear that the only exception to entry of a reduction for filing an IDS under circumstances that otherwise constitute a failure to engage in reasonable efforts to conclude prosecution is compliance with § 1.704(d). To ensure that a period of reduction would not be entered for filing the IDS, patentees could have filed the IDS within the period set forth in § 1.704(d) and included the § 1.704(d) statement.

If patentees cannot make the required § 1.704(d) statement on request for reconsideration, patentees should so advise the Office. Pursuant to their duty of good faith and candor, patentees should so advise the Office in order for adjustments

to be made to the PTA for the filing of an IDS on January 20, 2006 and on February 27, 2006.

In view thereof, the patent term adjustment indicated in the patent will remain one hundred ninety-five (195) days.

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 7

LAWRENCE A. LYNN
1507 CHAMBERS RD.
COLUMBUS OH 43212

COPY MAILED

OCT 16 2002

OFFICE OF PETITIONS

In re Application of
Lynn & Lynn
Application No.: 10/150,842
Filed: May 17, 2002
Attorney Docket No. N/A
For: MICROPROCESSOR SYSTEM FOR THE ANALYSIS OF PHYSIOLOGIC AND FINANCIAL DATASETS

: DECISION DISMISSING
: PETITION

This is a decision on the petition, filed August 20, 2002, requesting that the above-identified application be accorded a filing date of May 17, 2002.

The petition is **dismissed**.

Any request for reconsideration of this decision should include a cover letter entitled "Reconsideration Petition under 37 CFR 1.53(e)." Petitioners are advised that this is not a final agency decision.

The petition will not be treated because (**A**) the petition is not signed by either (1) both named inventors, (2) the owner to the rights of the inventor (the assignee), or (3) a registered attorney or agent duly appointed by the inventors or owners, as is required by 37 CFR 1.33 (b) AND (**B**) the petition fee of $130.00 has not been submitted.

Applicants have three options regarding the signature issue. Applicants could resubmit the petition (1) signed by both inventors or (2) signed by the assignee (if any), or (3) signed by a newly appointed registered representative. If petitioners choose to appoint an attorney or agent, then power of attorney documentation must be submitted at the same time the re-signed petition is filed. Both inventors must sign any power of attorney documents.

Petitioners are required to resubmit the petition, signed by the appropriate party/parties, unless petitioners appoint Mr. Lawrence A. Lynn. If petitioners appoint Mr. Lawrence A. Lynn, the power of attorney to Mr. Lawrence A. Lynn will be retroactively effective with respect to the August 20, 2002 petition and the August 20, 2002 will be treated.

In addition to resolving the signature issue, petitioners must submit the petition fee of $130.00. The merits of the properly signed petition will not be addressed until the petition fee is submitted. A request for a refund of the petition fee may be included in any reconsideration 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
Attn: Office of Petitions
E. Shirene Willis

By facsimile:
(703) 308-6916
Attn: Office of Petitions
E. Shirene Willis

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

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 10

LAWRENCE A. LYNN
1275 KINNEAR RD.
COLUMBUS OH 43212

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APR 1 8 2003

OFFICE OF PETITIONS

In re Application of
Lynn & Lynn
Application No. 10/150,842
Filed: May 17, 2002
Attorney Docket No. N/A
For MICROPROCESSOR SYSTEM FOR THE ANALYSIS OF PHYSIOLOGIC AND FINANCIAL DATASETS

DECISION GRANTING PETITION

This is a decision on the reconsideration petition filed April 1, 2003, to accord the above-identified application a filing date of May 17, 2002.

On May 17, 2002, the application was deposited.

On June 24, 2002, the Office of Initial Patent Examination mailed a Notice stating, *inter alia*, that drawings were missing and that a filing date would be accorded upon receipt of the missing drawings.

The present petition alleges that drawings were filed on May 17, 2002, but the Office misplaced them. Petitioners have provided no evidence to prove this assertion. However, the first line of the specification incorporated by reference the entire disclosure of provisional application no. 60/291,691. Petitioners request that the drawings from the provisional application be accorded a filing date of May 17, 2002 and be used for examination purposes in the above-identified nonprovisional application.

The Office allows an applicant to rely upon an incorporation by reference of a prior related application when a portion of the later filed application has been inadvertently omitted.

Based on the incorporation by reference, it appears that the drawings were present in the Office on May 17, 2002, albeit in the file of another application, i.e., application No. 60/291,691. Therefore, on petition, the application may be accorded the requested filing date of May 17, 2002.

In view of the above, the petition is **granted**. The copy of the drawings submitted with the August 20, 2002 petition will be used for examination purposes .

The petition fee of $130 will not be refunded since the petition was required to accord the application the requested filing date.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of May 17, 2002, using the application papers filed on May 17, 2002 and the copy of the drawings from the provisional application, the claims starting on a separate sheet of paper, and the abstract, all filed on August 20, 2002.

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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NIXON & VANDERHYE PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

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MAY 09 2006

OFFICE OF PETITIONS

In re Application of :
Lawrence A. Lynn et al :
Application No. 10/150,842 : DECISION ON PETITION
Filed: May 17, 2002 : TO WITHDRAW
Attorney Docket No. 1131-75 : 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 4, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record discloses that the Office accepted the June 2, 2004 receipt of a withdrawal of attorney to the attorneys/agents associated with Customer No. 23117, as evidenced by the communication mailed August 10, 2004. Unfortunately, the Office failed to change the correspondence address to the address of the applicant.

A new power of attorney was received on March 29, 2006. However, as the power of attorney was not signed by all the applicants, it cannot be accepted. Accordingly, all future correspondence regarding this file will be directed to the first-named applicant, Lawrence A. Lynn, at the address noted on the request filed October 4, 2005, albeit this address is different from the address found on the oath of record. In view of the nonacceptance of the power of attorney, there is currently no attorney of record. A courtesy copy of this communication is also being mailed to the address of the attorneys set forth in the power of attorney of March 29, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Lawrence A. Lynn, D.O.
1275 Olentangy River Road
Columbus, OH 43212

Fletcher Yoder (Tyco International, Ltd.)
P. O. Box 692289
Houston, TX 77269-2289

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIW May-06

LAWRENCE A. LYNN, D.O.
1275 OLENTANGY RIVER ROAD
COLUMBUS OH 43212

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MAY 10 2006

OFFICE OF PETITIONS

In re Application of :
Lynn et al. : DECISION ON PETITION
Application No. 10/150,842 : UNDER 37 CFR 1.78(a)(3)
Filed: 17 May, 2002 :
For: Microprocessor system for :
the analysis of physiologic and :
financial datasets :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on 29 November, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is

a question whether the delay was unintentional.

The petition does not satisfy item (1) above.

The reference to add the above-noted, prior-filed applications on page one following the first sentence of the specification is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

In view of the non-acceptance of the power of attorney filed on 29 March, 2006, a courtesy copy of this decision is being mailed to the newly appointed attorney.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:
Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries related to this decision should be directed to Senior Petitions Attorney Douglas I. Wood at 571-272-3231.

Frances Hicks

Frances M. Hicks
Lead Paralegal
Office of Petitions

cc: Fletcher Yoder
P.O. Box 692289
Houston TX 77269-2289

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FLETCHER YODER
(TYCO INTERNATIONAL, LTD.)
P.O. BOX 692289
HOUSTON TX 77269-2289

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AUG 2 8 2006
OFFICE OF PETITIONS

In re Application of	:	
Lynn et al.	:	
Application No. 10/150,842	:	DECISION ON PETITION
Filed: 17 May, 2002	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. THYL:0009	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed 19 June, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt

accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

The duplicate petition fee submitted with the present renewed petition is unnecessary and will be refunded via Treasury Check.

Any inquiries concerning this decision 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 3735 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Frances Hicks
Lead Paralegal
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/150,842	05/17/2002	3735	658	TYHL:0009	24	38	6

CONFIRMATION NO. 3328

52144
FLETCHER YODER (TYCO INTERNATIONAL, LTD.)
P.O. BOX 692289
HOUSTON, TX 77269-2289

CORRECTED FILING RECEIPT

OC000000020182920

Date Mailed: 08/24/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Lawrence A. Lynn, Columbus, OH;
Eric N. Lynn, Villa Ridge, MO;

Power of Attorney: The patent practitioners associated with Customer Number **52144**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/291,691 05/17/2001
and claims benefit of 60/291,687 05/17/2001
and is a CIP of 09/628,655 07/28/2000 PAT 6,609,016
which is a CIP of 09/115,226 07/14/1998 PAT 6,223,064
which is a CIP of 08/789,460 01/27/1997 PAT 5,891,023

Foreign Applications

If Required, Foreign Filing License Granted: 05/05/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/150,842

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Microprocessor system for the analysis of physiologic and financial datasets

Preliminary Class

600

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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United States Patent and Trademark Office
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TING BANG-HENG
235 CHUNG-HO BOX 8-24
TAIPEI, TAIWAN

AIRMAIL

COPY MAILED

NOV 0 3 2004

OFFICE OF PETITIONS

In re Application of :
Ting Bang-Heng :
Application No. 10/150,865 : ON PETITION
Filed: May 30, 2002 :
Attorney Docket No. CP2008-AMP06302 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 6 and 17, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue/publication fee in a timely manner in reply to the Notice of Allowance mailed August 21, 2003, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on November 22, 2003.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Publishing Division.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

AUSTIN RAPP & HARDMAN
170 SOUTH MAIN STREET, SUITE 735
SALT LAKE CITY, UT 84101

MAILED

NOV 19 2009

OFFICE OF PETITIONS

In re Application of :
Timothy Depottey et al :
Application No. 10/150,873 : NOTICE
Filed: May 17, 2002 :
Attorney Docket No. 14217

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

The file does not indicate a change of address has been submitted, although the address given on the 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.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Madson IP, P.C.
Old Shepard Commons, Suite 230
1466 North Highway 89
Farmington, UT 84025

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIW Apr-07

THOMAS A. MILLER
MILLER, MATTHIAS & HULL
SUITE 2350
ONE NORTH FRANKLIN STREET
CHICAGO IL 60606

COPY MAILED

APR 18 2007

OFFICE OF PETITIONS

In re Application of :
Tay et al. : DECISION ON PETITION
Application No. 10/150,878 :
Filed: 16 May, 2002 :
Attorney Docket No. 29985/SM-P0236R :

This is a decision on the petition filed on 31 January, 2007, which is being treated as a petition under 37 CFR 1.183 seeking waiver of 37 CFR §§ 1.67 and 1.175 where it requires that a supplemental declaration be executed by a named inventor.[1]

The petition is before the Office of Patent Legal Administration for decision.

The petition is **GRANTED**.

REVIEW OF FACTS

1. On 16 May, 2002, the application was filed as an application for reissue of U.S. Patent No. 6,063,085.

2. On 6 December, 2002, a declaration in compliance with 37 CFR 1.63 and 1.175 was filed, naming Sew Wah Tay, Kemal Schankereli, Thomas Holman, and Hans Mische as joint inventors.

[1] Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to also sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603.

3. On 31 July, 2006, a final Office action was mailed, setting a three (3) month shortened statutory period for reply. The Office action stated, *inter alia*, that a supplemental reissue oath or declaration must be filed before the application can be allowed.

4. On 31 January, 2007, a Request for Continued Examination, and amendment as the submission required under 37 CFR 1.114, were filed, along with a supplemental reissue declaration, a three (3) month extension of time and fee, and the present petition, whereby petitioners assert that joint inventor Sew Wah Tay has failed to sign and return the supplemental declaration.

DECISION ON PETITION UNDER 37 CFR 1.183 TO WAIVE §§ 1.67 AND 1.175

In view of the efforts recounted in the petition to locate and obtain the signature of Sew Wah Tay on the supplemental declaration in compliance with 37 CFR 1.175, it is agreed that justice would be served by waiving the requirement for the signature of joint inventor Tay on the supplemental declaration filed on 31 January, 2007.

CONCLUSION

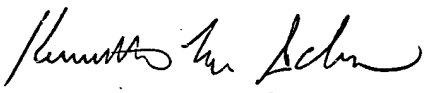
1. The petition is granted.

2. The application is being referred to Technology Center Art Unit 3736 for further processing.

3. Although the Rule 1.47 petition fee of $200.00 was paid on 31 January, 2007, the fee for a petition under 37 CFR 1.183 is $400.00. The additional fee due will be charged to counsel's deposit account, No. 50-3629, as authorized in the amendment filed on 26 June, 2006.

4. Telephone inquiries related to this decision only should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

5. Inquiries regarding petition status or general petition information are handled by the Office of Petitions staff at (571) 272-3282.



Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10150885

DATE : 22206

Paper No.: _____

TO SPE OF : ART UNIT 2167

SUBJECT : Request for Certificate of Correction on Patent No.: 6980984

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

ROCHAUN JOHNSON
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 119

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 Amendments To The Front Page insert Classifications from the European system in a section reserved for US classifications and as such are not approved. The remaining claim changes are accepted as not changing the scope or meaning of claims, changes to claim language to correct errors made in printing. JRC

John E. Breene — SPE
2167 — Art Unit

PTO/SB/44 (02-01)
PTO/SB/44 (02-01)
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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 a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 6,980,984 B1

DATED : December 27, 2005

INVENTOR(S) : Huffman et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the face page, in field (56), under "U.S. Patent Documents", in column 1, line 17, after "Huffman" insert - ~~G06F 15/18~~ should be 705/35 - -.

On the face page, in field (56), under "U.S. Patent Documents", in column 2, line 2, after "Huffman" insert - - ~~G06K 9/62~~ should be 382/155 - -.

On the face page, in field (56), under "U.S. Patent Documents", in column 2, line 6, after "Riley et al." insert - - ~~G06F 17/60~~ should be 706/45 - -.

On sheet 3 of 6, in Fig. 3 (Box 310), line 2, delete <persom> and insert - - <person> - -, therefor.

In column 8, line 63, delete "20030115791" and insert - - 20030115191 - -, therefor.

In column 13, line 8, delete "documents" and insert - - document's - -, therefor.

In column 13, line 24, after "In" delete "sum,".

In column 13, line 29, after "PUB." insert - - No. - -.

In column 22, line 57, in Claim 9, after "concepts" insert - - , - -.

In column 24, line 6, in Claim 24, delete "parameters" and insert - - parameter, - -, therefor.

In column 25, line 58, in Claim 40, delete "parameters" and insert - - parameter, - -, therefor.

In column 26, line 38, in Claim 44, delete "parameters" and insert - - parameter, - -, therefor.

In column 28, line 1, in Claim 51, delete "parameters" and insert - - parameter, - -, therefor.

MAILING ADDRESS OF SENDER:

SCHWEGMAN, LUNDBERG, WOESSNER, & KLUTH, P.A.
P.O. BOX 2938
Minneapolis, MN 55402

Atty Docket No: 1546.008US1

PATENT NO. 6,980,984

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 10

RICHARD O. BARTZ
6750 FRANCE AVENUE SOUT
SUITE 350
EDINA, MN 55435

COPY MAILED

JUL 2 9 2004

OFFICE OF PETITIONS

In re Application of :
Dennis W. Ekern :
Application No. 10/150,888 :
Filed: May 16, 2002 : ON PETITION
Title of Invention: :
FRAMING SQUARE JIG :

This is a decision on the Renewed Petition Under 37 CFR 1.137, which is properly treated as a renewed petition under 37 CFR 1.137(a), filed July 19, 2004, to revive the above-identified application.

The petition is dismissed.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background:

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice", mailed July 1, 2002. The Notice set a two (2) month period for reply. No extensions of time having been obtained under 37 CFR 1.136(a), this application became abandoned on September 2, 2002. A Notice of Abandonment was mailed on December 23, 2003.

A Petition to revive the application based upon unavoidable delay, wherein Applicant asserted that abandonment was unavoidable because Applicant did not receive a copy of the Notice, was dismissed in a Decision mailed March 18, 2004, for failing to meet the requirements of a grantable petition under 37 CFR 1.137(a).

Applicant also filed a Declaration and filing fee of $366.00 with the petition on February 23, 2004.

The instant request for reconsideration

Applicant files the instant petition and supporting documents evidencing non-receipt of the Notice; however, Applicant has failed to provide the necessary fees associated with processing the instant petition and application.

It is initially noted that the petition requires a two-month extension of time. The fee for a two-month extension of time is $420.00, which may be reduced by half for a small entity. While Applicant has filed a request for a two-month extension of time, he has not filed the fee for said request, nor is there an authorization to charge a deposit account the fee required for a two-month extension of time.

Additionally, a review of the fees filed with the February 23, 2004 petition, reveal that applicant submitted $366.00 as a Declaration and Filing Fee. Applicant is advised that the filing fee for a small entity (an assertion not located among the application papers), is $385.00 as of October 1, 2003. Also, the surcharge for filing a late oath or declaration is, as of October 1, 2003, $65.00 for a small entity.

Accordingly, Applicant has failed to file the necessary extension of time fees sufficient to justify addressing the merits of the instant petition, and has failed to file the necessary fees sufficient to revive this application.

In the interest of time, the merits of the petition reveal that Applicant has filed the statements and supporting documents evidencing non-receipt of the Notice; however, the required fees remain outstanding.

The petition is dismissed without prejudice. A copy of the Notice is enclosed herewith. Applicant is advised to monitor the USPTO web site at www.uspto.gov, for changes in fees.

In sum, Applicant must submit the difference between the fees paid, $366.00, and the fees due, $210.00 + 65.00 + 19.00 = $294.00. Fees normally increase in October. Applicant is

advised that any fees filed after September 30, 2004 may be subject to an increase.

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 facsimile: (703) 308-6916
Attn: Office of Petitions

By hand: 220 20th Street S.
Customer Window
Crystal Plaza Two, Lobby Room 1B03
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
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

RICHARD O. BARTZ
6750 FRANCE AVENUE SOUT
SUITE 350
EDINA, MN 55435

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FEB 0 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Dennis W. Ekern	:	
Application No. 10/150,888	:	CORRECTED DECISION
Filed: May 16, 2002	:	ON PETITION and DECISION
Title of Invention:	:	ON RENEWED PETITION
FRAMING SQUARE JIG	:	

This is a decision correcting the Decision mailed July 29, 2004, and addressing the petition filed October 1, 2004. The petitions are properly treated under 37 CFR 1.137(a), to revive the above-identified application.

The Decision mailed July 29, 2004 is corrected in accordance with this Decision.

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.

After a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner. Therefore, it is extremely important that petitioner supply **any** and **all** relevant information and documentation with his request for reconsideration. The Commissioner's decision will be based solely on the administrative record in existence. Petitioner should remember that it is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence to 'show' that the delay was unavoidable. Therefore, if a request for reconsideration is filed, it must establish that the entire delay in the submission of the maintenance fee was unavoidable.

Background:

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice", mailed July 1, 2002. The Notice set a two (2) month period for reply. No extensions of time having been obtained under 37 CFR 1.136(a), this application became abandoned on September 2, 2002. A Notice of Abandonment was mailed on December 23, 2003.

A Petition to revive the application based upon unavoidable delay, wherein Applicant asserted that abandonment was unavoidable because Applicant did not receive a copy of the Notice, was dismissed in a Decision mailed March 18, 2004, for failing to meet the requirements of a grantable petition under 37 CFR 1.137(a). Applicant was advised in the decision dismissing the petition that Applicant must provide 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, and a copy of the docket record (or file jacket) where the non-received Office communication would have been entered had it been received and docketed.

Applicant also filed a Declaration and filing fee of $366.00 with the petition on February 23, 2004.

Applicant filed a Request for Reconsideration of Petition on July 19, 2004, and included a statement from the inventor that he did not receive the Notice. Applicant failed to provide a copy of the docket record (or file jacket) where the non-received Office communication would have been entered had it been received and docketed. Applicant was erroneously advised that he had submitted supporting documents evidencing non-receipt of the Notice. The petition was dismissed because Applicant had failed to provide the necessary fees associated with processing the petition and application.

It was noted that the petition required a two-month extension of time. Applicant was advised that the fee for a two-month extension of time is $420.00, which may be reduced by half for a small entity. While Applicant had filed a request for a two-month extension of time, he had not filed the fee for the request, nor was there an authorization to charge a deposit account the fee required for a two-month extension of time.

Additionally, a review of the fees filed with the February 23, 2004 petition, revealed that applicant submitted $366.00 as a Declaration and Filing Fee. Applicant was advised that the filing fee for a small entity (an assertion not located among the application papers), was $385.00 as of October 1, 2003. Also, the surcharge for filing a late oath or declaration was, as of October 1, 2003, $65.00 for a small entity.

The petition was dismissed. A copy of the Notice was enclosed with the dismissal. Applicant was advised to monitor the USPTO web site at www.uspto.gov, for changes in fees.

The instant petition

Applicant files the instant petition and reiterates that neither the attorney nor the inventor received the Notice. Applicant states in the petition that a search of Applicant's attorneys' file jacket and docket log did not locate the Notice. Applicant has also included a copy of the Attorney's file jacket and/or docket log.

A review of the application file reveals that, upon filing of the application, the inventor's name and address were placed on the specification. The application Transmittal form reveals that Richard O. Bartz signed the Certificate of Express Mailing and the accompanying non-publication request, but that no mailing address of Richard O. Bartz was provided on filing. There was no Power of Attorney filed with the application on May 16, 2002. Accordingly, the correspondence address on file with this Office was that of inventor Dennis W. Ekern, at 410 Schnick Road, Onalaska WI, 54650, the same address to which this Office mailed the Notice.

Applicant is advised that, in accordance with 37 CFR § 1.33,

> When filing an application, a correspondence address must be set forth in either an application data sheet (§ 1.76), or elsewhere, in a clearly identifiable manner, in any paper submitted with an application filing. If no correspondence address is specified, the Office may treat the mailing address of the first named inventor (if provided, see §§ 1.76(b)(1) and 1.63(c)(2)) as the correspondence address. The Office

> will direct all notices, official letters, and other communications relating to the application to the correspondence address.

As such, the correspondence address of record with this Office was that of the inventor, and the Notice was properly mailed to the correspondence address of record. Moreover, in absence of any irregularity in the mailing of an Office action, 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 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. MPEP. § 711.03(c); *See* Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not received," 1156 O.G. 53 (November 16, 1993). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

A further review of the application file reveal that a Change of Correspondence Address was not filed in this application until July 19, 2004, with the filing of the Request for Reconsideration of Petition.

Also on July 19, 2004, applicant filed a statement from the inventor to the effect that he never received the Notice, mailed July 1, 2002. The inventor's recollection of events that occurred more than 2 years ago is not sufficient to overcome a presumption that, in the absence of any irregularity in the mailing of an Office action, the Notice was properly mailed to the correspondence address of record, and that it may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

The correspondence address of record, at the time the Notice was mailed, was that of the inventor. The inventor must provide a

copy of his file jacket/docket record where the non-received Notice would have been mailed had it been received[1].

Finally, Applicant has again failed to file the fee for a two-month extension of time. The fee is required before any further consideration of the merits of the petition will be undertaken.

Alternate venue:

Applicant is strongly urged to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee, currently $750.00.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-0025
Attn: Office of Petitions

[1] It is also noted that Attorney Bartz filed the application, and it is therefore unlikely that the inventor maintained records regarding this application.

By hand: Customer Window Located at:
U.S. Patent & Trademark Office
220 20th Street S.
Customer Window, Mail Stop PETITIONS
Crystal Plaza Two, Lobby Room 1B03
Arlington, VA 22202

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney/Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

RICHARD O. BARTZ
6750 FRANCE AVENUE SOUT
SUITE 350
EDINA, MN 55435

COPY MAILED

MAR 3 0 2005

OFFICE OF PETITIONS

In re Application of :
Dennis W. Ekern :
Application No. 10/150,888 : DECISION ON PETITION
Filed: May 16, 2002 :
Title of Invention: :
FRAMING SQUARE JIG :

This is a decision on the petition to revive the application based upon an unintentional abandonment under 37 CFR 1.137(b), filed February 17, 2005.

The petition is granted.

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice", mailed July 1, 2002. The Notice set a two (2) month period for reply. No extensions of time having been obtained under 37 CFR 1.136(a), this application became abandoned on September 2, 2002. A Notice of Abandonment was mailed on December 23, 2003.

Applicant filed a Declaration on February 23, 2004, and the appropriate fees on September 9, 2004.

The application is being referred to the Office of Initial Patent Examination for further processing in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney/Advisor
Office of Petitions

OIPE
SEP 0 9 2002
PATENT & TRADEMARK OFFICE
JC105

ORD MP $ #3

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Lee et al.

Serial No.: 10/150,892

Filed: May 17, 2002

For: METHOD AND APPARATUS FOR FLIP-CHIP PACKAGING PROVIDING TESTING CAPABILITY

Confirmation No.: 1097

Examiner: Unknown

Group Art Unit: 2814

Attorney Docket No.: 2269-4877US

CERTIFICATE OF MAILING

I hereby certify that this correspondence along with any attachments referred to or identified as being attached or enclosed is being deposited with the United States Postal Service as First Class Mail on the date of deposit shown below with sufficient postage and in an envelope addressed to the Commissioner for Patents, Washington, D.C. 20231.

September 5, 2002
Date

Signature

Joseph A. Walkowski
Name (Type/Print)

RESPONSE TO NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

Attention: Box Missing Parts
Commissioner for Patents
Washington, D.C. 20231

Sir:

In connection with the above-referenced patent application, enclosed is a copy of the Notice to File Missing Parts of Nonprovisional Application, and Check No. 18193 in the amount of $2,406.00 for the filing fees and surcharge, along with Declaration and Power of Attorney, Preliminary Amendment with Appendices A, B, C and D, Letter to the Chief Draftsman and attached revised drawings with annotations in red (4 sheets, 4 figures), Transmittal of Formal Drawings (1 page); and Formal Drawings (10 sheets, 18 figures).

A check in the amount of $2,406.00 is enclosed in payment of all required fees. If the amount of the check is insufficient, please debit TraskBritt Deposit Account No. 20-1469 for the remainder of the fee. If the amount is in excess of that required, please credit that deposit account.

This document is being filed within two (2) months from the mailing date of the Notice to File Missing Parts.

Respectfully submitted,

Joseph A. Walkowski
Registration No. 28,765
Attorney for Applicant(s)
TRASKBRITT
P.O. Box 2550
Salt Lake City, Utah 84110-2550
Telephone: 801-532-1922

Date: September 5, 2002
JAW/dlm

Enclosures: Copy of Notice to File Missing Parts of Application
Check No. 18193 in the amount of $2,406.00
Preliminary Amendment with Appendices A, B, C and D
Letter to the Chief Draftsman and attached revised drawings with annotations in red (4 sheets, 4 figures)
Transmittal of Formal Drawings (1 page)
Formal Drawings (10 sheets, 18 figures)

Document in ProLaw

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/150,892	05/17/2002	Teck Kheng Lee	4877US (00-0692)

24247
TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY, UT 84110

CONFIRMATION NO. 1097
FORMALITIES LETTER

OC0000000008600808

Date Mailed: 08/13/2002

09/10/2002 GWORDOF1 00000041 10150892
cccccc41 10150892
01 FC:101 740.00 OP
02 FC:102 420.00 OP
03 FC:103 1116.00 OP
04 FC:105 130.00 OP

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 $ **740** *to complete the basic filing fee for a non-small entity. If appropriate, applicant may make a written assertion of entitlement to small entity status and pay the small entity filing fee (37 CFR 1.27).*
- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of $130 for a non-small entity, must be submitted with the missing items identified in this letter.

Items Required To Avoid Processing Delays:

The item(s) indicated below are also required and should be submitted with any reply to this notice to avoid further processing delays.

- Additional claim fees of **$1536** as a non-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 **$2406** for a Large Entity

- **$740** Statutory basic filing fee.
- **$130** Late oath or declaration Surcharge.
- Total additional claim fee(s) for this application is **$1536**

- **$1116** for **62** total claims over 20.
- **$420** for **5** independent claims over 3.

A copy of this notice MUST be returned with the reply.

Haygood

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

OIPE
SEP 0 9 2002
PATENT & TRADEMARK OFFICE
JC105

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Lee et al.

Serial No.: 10/150,892

Filed: May 17, 2002

For: METHOD AND APPARATUS FOR FLIP-CHIP PACKAGING PROVIDING TESTING CAPABILITY

Confirmation No.: Not yet assigned

Examiner: Unknown

Group Art Unit: Not yet assigned

Attorney Docket No.: 2269-4877US

CERTIFICATE OF MAILING

I hereby certify that this correspondence along with any attachments referred to or identified as being attached or enclosed is being deposited with the United States Postal Service as First Class Mail on the date of deposit shown below with sufficient postage and in an envelope addressed to the Commissioner for Patents, Washington, D.C. 20231.

September 5, 2002
Date

Signature

Joseph A. Walkowski
Name (Type/Print)

TRANSMITTAL OF FORMAL DRAWINGS

Commissioner for Patents
Washington, D.C. 20231

Sir:

Attached please find the formal drawings for this application.

Respectfully submitted,

Joseph A. Walkowski
Registration No. 28,765
Attorney for Applicant(s)
TRASKBRITT
P.O. Box 2550
Salt Lake City, Utah 84110-2550
Telephone: 801-532-1922

Date: September 5, 2002
JAW/csw
Document in ProLaw

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TRASK BRITT
P O BOX 2550
SALT LAKE CITY, UT 84110

COPY MAILED

JUN 28 2005

OFFICE OF PETITIONS

In re Application of :
Teck Kheng Lee :
Application No. 10/150,893 : DECISION GRANTING PETITION
Filed: May 17, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2269-4812US (00-1116) :

This is a decision on the petition, filed June 20, 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 14, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2826 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[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

TRASKBRITT
P. O. BOX 2550
SALT LAKE CITY, UT 84110

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APR 24 2007

OFFICE OF PETITIONS

In re Application of :
Teck Kheng Lee :
Application No. 10/150,901 : DECISION GRANTING PETITION
Filed: May 17, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2269-4974US :

This is a decision on the petition, filed April 23, 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 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) 272-3218.

This matter is being referred to Technology Center AU 2812 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Apr10\150901.wpd

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment.*

UNITED STATES 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. 21

TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY UT 84110

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APR 27 2004

OFFICE OF PETITIONS

In re Application of :
Teck Kheng Lee :
Application No. 10/150,902 :
Filed: May 17, 2002 :
Attorney Docket No. 2269-4973US :

ON PETITION

This is a decision on the petition, filed April 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 February 13, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 2815 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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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).

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Teck Kheng Lee

Serial No.: 10/150,902

Filed: May 17, 2002

For: METHOD AND APPARATUS FOR DIELECTRIC FILLING OF FLIP CHIP ON INTERPOSER ASSEMBLY

Confirmation No.: 1095

Examiner: J. Clark

Group Art Unit: 2815

Attorney Docket No.: 2269-4973US
(00-0593.00/US)

Notice of Allowance Mailed:

March 21, 2005

Express Mail Mailing Label No.:	EL 994847891 US
Date of Deposit with USPS:	June 16, 2005
Person making Deposit:	Steve Wong

REQUEST TO APPLY PREVIOUSLY PAID ISSUE FEE TO ISSUE FEE REQUIRED BY NEW NOTICE OF ALLOWANCE

Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to the Decision on Petition mailed April 27, 2004 (a copy of which is attached hereto), Applicant respectfully requests that the issue fee paid February 13, 2004 in the total amount of $1,645.00 be applied to the issue fee due under the new Notice of Allowance mailed March 21, 2005. The $1,645.00 amount previously paid was for payment of the issue fee, the publication fee, plus five (5) extra copies of the patent when issued. Applicants understand that

the issue fee amount has since increased, and therefore enclose a check in the amount of $70.00 to cover the difference between the issue fee previously paid and the issue fee due under the new Notice of Allowance.

This Request is submitted simultaneously with the new Issue Fee Transmittal Form PTOL-85(b) and accompanying papers.

Respectfully submitted,

Joseph A. Walkowski
Registration No. 28,765
Attorney for Applicant(s)
TRASKBRITT
P.O. Box 2550
Salt Lake City, Utah 84110-2550
Telephone: 801-532-1922

Date: June 16, 2005
JAW/ps:slm

Attachment: Copy of Decision on Petition mailed April 27, 2004

Document in ProLaw

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OIPE
JUN 16 2005
PATENT & TRADEMARK OFFICE

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APR 30 2004
TRASKBRITT, PC

Paper No.

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APR 27 2004
OFFICE OF PETITIONS

TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY UT 84110

In re Application of :
Teck Kheng Lee :
Application No. 10/150,902 :
Filed: May 17, 2002 :
Attorney Docket No. 2269-4973US :

ON PETITION

This is a decision on the petition, filed April 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 February 13, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 2815 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TRASK BRITT
P O BOX 2550
SALT LAKE CITY, UT 84110

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DEC 16 2005

OFFICE OF PETITIONS

In re Application of	:	
Teck Keng Lee	:	
Application No. 10/150,902	:	DECISION ON PETITION
Filed: May 17, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2269-4973US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 9, 2005, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED as moot**.

Unfortunately, the instant petition was not received within sufficient time to avert the issuance of the above-identified application into a patent.[1] The Office sincerely apologizes for any inconvenience caused petitioner in this matter.

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. In view thereof, the $790 filing fee submitted therefor, as well as the petition fee of $130, will be refunded in due course.

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

[1] In the future, petitioner may wish to consider submitting the petition, RCE, IDS, etc., by facsimile directly to the Office of Petitions at facsimile transmission number 571-273-0025.

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

LAURA M. SLENZAK
SIEMENS CORPORATION
186 WOOD AVENUE SOUTH
ISELIN, NJ 08830

COPY MAILED

SEP 03 2002

OFFICE OF PETITIONS

In re Application of
Desmier et al.
Application No. 10/150903
Filed: May 17, 2002
Attorney Docket No. 2001P15581 US

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10 (c) filed on August 15, 2002, requesting that the above-identified application be accorded a filing date of May 17, 2002, rather than the presently accorded filing date of May 16, 2002.

Petitioner alleges that the application was deposited in Express Mail service on May 17, 2002. In support, on August 15, 2002, petitioner supplied a copy of Express Mail receipt No. EL860084747US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file) showing a United States Postal Service official postmark dated May 17, 2002.

In view of the above, the petition is granted. No petition fee is required.

The application is being forwarded to Office of Initial Patent Examination for further processing and issuance of a corrected Filing Receipt.

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 specific to this matter should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

Beverly Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: David J. Gaskey
Carlson, Gaskey & Olds, P.C.
400 West Maple Road, Suite 350
Birmingham, Michigan 48009

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SUGHRUE MION PLLC
2100 PENNSYLVANIA AVE NW
SUITE 800
WASHINGTON DC 20037

COPY MAILED

DEC 0 7 2005

OFFICE OF PETITIONS

In re Patent No. 6,927,009	:	DECISION ON
Kodama, et al.	:	PATENT TERM ADJUSTMENT
Issue Date: August 9, 2005	:	AND NOTICE OF INTENT
Application No. 10/150,967	:	TO ISSUE
Filed: May 21, 2002	:	CERTIFICATE OF
Attorney Docket No. Q70226	:	CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 C.F.R. UNDER §1.705(d)", filed September 15, 2005. Patentee requests that the patent term adjustment indicated on the patent be corrected from seventy-five (75) days to one hundred ninety-five (195) days.

The petition is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **one hundred ninety-five (195)** days.

On August 9, 2005, the above-identified application matured into U.S. Patent No. 6,927,009. The instant request for reconsideration filed September 15, 2005 was timely filed within two months of the date the patent issued. See §1.705(d). The Patent issued with a Patent Term Adjustment of seventy-five (75) days.

Patentees fail to state whether the patent is subject to a terminal disclaimer.

Patentees assert that they should not have been assessed applicant delay of one hundred twenty (120) days under 37 C.F.R. §1.704(c)(10) for the submission of a copy of page 99 of the specification on April 5, 2005. According to patentees, they submitted the page upon request from the Office. However, patentees argue that they previously submitted page 99 of the specification upon filing.

A review of the record confirms that page 99 of the specification was submitted on filing, but was not scanned into the Image File Wrapper (IFW). Accordingly, the Office's request for applicants to submit page 99 was improper. As such, no applicant delay should be assessed for supplying a copy after the mailing of the Notice of Allowance.

In view thereof, the correct determination of PTA at the time of issuance is one hundred ninety five (195) days ((192+3) days of PTO delay and 0 days of applicant delay).

Receipt of the $200.00 fee set forth in 37 C.F.R. §1.18(e) is acknowledged.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 C.F.R. § 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **one hundred nintey-five (195)** days, subject to any disclaimers.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Karen A Fries
for

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enc: draft certificate of correction

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

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
WASHINGTON DC 20037

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AUG 1 5 2002

OFFICE OF PETITIONS

In re Application of
Nagai, et al.
Application No. 10/151,014
Filed: May 21, 2002
Attorney Docket No. Z70233
For: METHOD OF MANUFACTURING A MOTOR CASING

: DECISION GRANTING
: PETITION

This is a decision on the petition entitled, "Response to Notice to Incomplete Nonprovisional Application and Petition", filed July 22, 2002, requesting that the above-identified application be accorded a filing date of May 21, 2002. The petition will be treated under 37 CFR 1.53(e).

The application was deposited on May 21, 2002. On June 27, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioners that no filing date had been accorded to the application papers deposited on May 21, 2002 because no drawings were present, as is required by 35 USC 113.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that the above-identified application be accorded a filing date of May 21, 2002 on the basis that 3 sheets of drawing figures were received in the Patent and Trademark Office (PTO) on May 21, 2002. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination date stamp citing May 21, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 3 sheets of drawings.

The return postcard constitutes *prima facie* evidence that 3 sheets of drawing figures were filed on May 21, 2002. MPEP 503. Accordingly, the request is granted.

No fee has been or will be charged in connection with this matter.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **May 21, 2002**, using the copy of the 3 sheets of drawings submitted with the instant petition. Office records will be corrected to show that 3 sheets of drawings were present on filing.

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES 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 DEBERARDINE
ABBOTT LABORATORIES
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OFFICE OF PETITIONS

In re Application of	:	
Petriconi et al.	:	
Application No. 10/151,033	:	ON PETITION
Filed: May 17, 2002	:	
Attorney Docket No. 6806US02	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 13, 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 1600 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

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JAN 14 2009

OFFICE OF PETITIONS

In re Application of	:	
Edwards et al.	:	
Application No. 10/151,050	:	LETTER REGARDING
Filed: May 20, 2002	:	PATENT TERM ADJUSTMENT
Atty Docket No. 14509-0126001-P080474SEX0	:	

This is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT," filed November 26, 2008. Applicants disclose that the initial determination under 35 USC 154(b) of fifteen hundred (1500) days may be longer than appropriate.

The request for review of the patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **one thousand one hundred fifty-five (1155)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On September 9, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 1500 days. Applicants state no basis for their disclosure that the initial determination of patent term adjustment may be longer than appropriate.

Nonetheless, a review of the record confirms that the patent term adjustment is longer than appropriate. Pursuant to 35 U.S.C. 154(b)(1)C(iii) and 37 CFR 1.702(e), a patent is entitled

to patent term adjustment if the issuance of the patent was delayed by successful appellate review under 35 U.S.C. 134, 141 or 145. 37 CFR 1.703(e) provides that the period of adjustment under § 1.702(e) is the sum of:

> 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 § 1.191 and ending on the date of a final decision in favor of the applicant 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.

A review of the record confirms that a notice of appeal was filed on February 15, 2005. However, in response to the non-final rejection mailed September 20, 2005, on January 20, 2006, applicants requested to reinstate the earlier appeal (and filed a supplemental appeal brief). Thus, it is appropriate to use the January 20, 2006 date in calculating the period under § 1.703(e). A final decision by the Board of Patent Appeals and Interferences, reversing all grounds for rejection of at least one claim was issued on June 27, 2008.

Accordingly, the period of adjustment delay caused by successful appellate review is 890 days (e.g., beginning on January 20, 2006 and ending on June 27, 2008).

Moreover, after filing the request for reinstatement of appeal on January 20, 2006, on January 26, 2006, applicants resubmitted a more "explicit" petition for extension of time. The record does not support a conclusion that this supplemental paper was expressly requested by the examiner. 37 CFR 1.704(c)(8) provides that, circumstances that constitute a failure to engage include:

> Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;

Accordingly, pursuant to 37 CFR 1.704(c)(8), an additional period of reduction is being entered for the period, beginning on January 21, 2006, the date the initial reply was filed and ending on January 26, 2006, the date the supplemental reply was filed.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is one thousand one hundred fifty-five (1155) days (219 + 64 + 890 days of Office delay reduced by 2 + 6 + 10 days of applicant delay).

As this letter was submitted as an advisement to the Office of an error in applicants' favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

The application file is being forwarded to the Office of Data Management for issuance of the patent. Any further period of adjustment accrued pursuant to 37 CFR 1.702(a)(4) and 1.702(b) will be reflected in the patent term adjustment shown on the issue notification letter mailed approximately three weeks prior to the issuance of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Revised PAIR Screen

PTA Calculations for Application: 10/151050			
Application Filing Date:	05/20/2002	PTO Delay (PTO):	1512
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	12
Post-Issue Petitions:	0	Total PTA (days):	1155
PTO Delay Adjustment:	-345		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
109	01/12/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		6	
108	01/12/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	890		
107	01/12/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		1229	
95	09/09/2008	MAIL NOTICE OF ALLOWANCE			
94	09/05/2008	ISSUE REVISION COMPLETED			
93	09/05/2008	DOCUMENT VERIFICATION			
92	09/05/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
91	09/05/2008	EXAMINER'S AMENDMENT COMMUNICATION			
90	09/05/2008	NOTICE OF ALLOWABILITY			
86	06/27/2008	MAIL BPAI DECISION ON APPEAL - AFFIRMED IN PART	1229		37
85	06/27/2008	BPAI DECISION - EXAMINER AFFIRMED IN PART			
84	10/31/2007	DOCKETING NOTICE MAILED TO APPELLANT			
83	10/30/2007	ASSIGNMENT OF APPEAL NUMBER			
82	10/30/2007	ASSIGNMENT OF APPEAL NUMBER			
81	10/06/2007	APPEAL AWAITING BPAI DOCKETING			
80	09/14/2007	MAIL REPLY BRIEF NOTED BY EXAMINER			
79	09/13/2007	REPLY BRIEF NOTED BY EXAMINER			
78	09/10/2007	DATE FORWARDED TO EXAMINER			
77	08/13/2007	REPLY BRIEF FILED			
76	09/10/2007	EXAM. ANS. REVIEW COMPLETE			
75	06/07/2007	MAIL SUPPLEMENTAL EXAMINER'S ANSWER			
74	06/04/2007	2ND OR SUBSEQUENT EXAMINER'S ANSWER TO APPEAL BRIEF			
73	05/09/2007	ORDER RETURNING UNDOCKETED APPEAL TO			

		THE EXAMINER			
72	02/28/2007	APPEAL AWAITING BPAI DOCKETING			
71	02/01/2007	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
70	01/31/2007	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
69	11/30/2006	DATE FORWARDED TO EXAMINER			
68	11/27/2006	SUPPLEMENTAL APPEAL BRIEF		10	66
67	09/07/2007	DATE FORWARDED TO EXAMINER			
66	11/17/2006	RESP. TO POST-EXAMINER ANS			
65	10/20/2007	MAIL POST-EXAMINER ANS. COM			
46	10/19/2006	POST-EXAMINER ANS. COM			
45	10/19/2006	EXAM. ANS. REVIEW COMPLETE			
44	10/19/2006	APPEAL BRIEF REVIEW COMPLETE			
43	09/28/2006	MAIL EXAMINER'S ANSWER			
42	09/26/2006	EXAMINER'S ANSWER TO APPEAL BRIEF			
41	07/27/2006	DATE FORWARDED TO EXAMINER			
40	01/20/2006	SUPPLEMENTAL APPEAL BRIEF			
39	07/27/2006	DATE FORWARDED TO EXAMINER			
38	03/18/2005	APPEAL BRIEF FILED			
37	02/15/2005	NOTICE OF APPEAL FILED			
36	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
35	01/26/2006	MISCELLANEOUS INCOMING LETTER			
33	09/20/2005	MAIL NON-FINAL REJECTION	64		29
32	09/06/2005	NON-FINAL REJECTION			
31	04/08/2005	NEW OR ADDITIONAL DRAWING FILED			
30	03/29/2005	DATE FORWARDED TO EXAMINER			
29	03/18/2005	APPEAL BRIEF FILED			
28	02/15/2005	NOTICE OF APPEAL FILED			
25	12/27/2004	MAIL FINAL REJECTION (PTOL - 326)			
24	12/26/2004	FINAL REJECTION			
23	12/06/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
22	12/06/2004	DATE FORWARDED TO EXAMINER			
21	11/08/2004	AMENDMENT AFTER FINAL REJECTION		2	16
20	05/20/2002	REFERENCE CAPTURE ON IDS			
19	09/06/2002	REFERENCE CAPTURE ON IDS			
18	11/08/2004	WORKFLOW INCOMING AMENDMENT IFW			

17	08/24/2004	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
16	08/06/2004	MAIL FINAL REJECTION (PTOL - 326)			
15	08/05/2004	FINAL REJECTION			
14	06/01/2004	DATE FORWARDED TO EXAMINER			
13	05/24/2004	RESPONSE AFTER NON-FINAL ACTION			
12	05/24/2004	WORKFLOW INCOMING AMENDMENT IFW			
11	02/24/2004	MAIL NON-FINAL REJECTION	219		-1
10	02/23/2004	NON-FINAL REJECTION			
9	01/14/2004	CASE DOCKETED TO EXAMINER IN GAU			
8.7	09/06/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	09/06/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	05/20/2002	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
6.7	05/20/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
6	05/20/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
5	08/06/2002	CASE DOCKETED TO EXAMINER IN GAU			
4	06/28/2002	APPLICATION DISPATCHED FROM OIPE			
3	06/26/2002	APPLICATION IS NOW COMPLETE			
2	05/29/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	05/20/2002	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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WASHINGTON, DC 20036-3425

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JUN 16 2004

OFFICE OF PETITIONS

In re Application of :
Albert J. Lawless :
Application No. 10/151,073 : ON PETITION
Filed: May 17, 2002 :
Attorney Docket No. AJL-1 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 2, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 8, 2003, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 9, 2003.

Pursuant to petitioner's authorization, Deposit Account No. 22-0185 was charged $665.00 for the petition to revive an unintentionally abandoned application.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685.

The application file is being forwarded to Technology Center AU 3641.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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SEP 16 2003

OFFICE OF PETITIONS

In re Application of :
Gyula Hadlaczky :
Application No. 10/151,078 : NOTICE
Filed: May 16, 2002 :
Attorney Docket No. 24601-402K :

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.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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MAR 3 0 2004

OFFICE OF PETITIONS

In re Application of :
Gyula Hadlaczky et al :
Application No. 10/151,081 : NOTICE
Filed: May 16, 2002 :
Attorney Docket No. 24601-402L :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This matter is being referred to Technology Center AU 1632.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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SEP 26 2005

PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. Box 10500
McLean, VA 22102

In re Application of	: PETITION DECISION
Peter Revelis et al	: UNDER 37 CFR 1.181
Serial No: 10/151,101	:
Filed: May 21, 2002	:
For: PARKING BRAKE ACTUATOR WITH ANTI-RELEASE FEATURE	:

This decision is in response to applicant's "PETITION UNDER 37 C.F.R. 1.181" received on August 2, 2004 requesting new Figure 1 filed June 7, 2004 be entered and the examiner's objection to it be reversed.

The petition is **GRANTED**.

A review of the record reveals that the examiner objected to the drawings for failing to show the vehicle, the passenger compartment and brake system of claim 15 in the Office action mailed September 17, 2003. In response on December 17, 2003 applicant filed a new Figure 1. The examiner refused to enter the December 17, 2003 Figure 1 on the grounds that it contained new matter in the March 3, 2004 Office action. On June 7, 2004 applicant submitted a new Figure 1. In an Advisory Action mailed July 12, 2004 the examiner refused entry of the June 7, 2004 Figure 1 on the ground that it contained new matter. In particular, that the brake cable 12 being connected linearly to one braking system 82 as shown in new Figure 1 was not conveyed in the original disclosure and thus raised the issue of new matter.

Petitioner argues that the June 7, 2004 Figure 1 is not new matter since it only illustrates subject matter that was adequately described in the specification and only schematically represents the vehicle, its passenger compartment and its brake system.

A review of the June 7, 2004 Figure 1 shows that applicant has merely schematically represented the features objected to as not shown by the examiner, namely the vehicle, its passenger compartment and its brake system. In particular, the dashed line box 82 does not mean that there is only one brake system and the dashed line between the cable 12 and the box 82 does not mean the cable is connected linearly to one brake system. The June 7, 2004 Figure 1 does not add new matter to the drawings and is deemed to overcome the examiner's objection to the drawings under 37 CFR 1.83(a).

The application is being forwarded to the examiner for consideration of the Appeal Brief filed April 6, 2005.

Summary: The petition is **GRANTED**.

Inquiries related to this decision may be directed to Supervisory Patent Examiner Charles A. Marmor at (571) 272-7095.

Robert Oberleitner, Director
Patent Technology Center 3600
(571) 272-5350

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glm

Mailed: 9-10-07

In re Application of	:	DECISION
Roni Gordon	:	GRANTING
Serial No. 10/151,106	:	PETITION
Filed: May 21, 2002	:	
For: PERSONAL NUTRITION CONTROL METHOD	:	

This is a decision on the PETITION FOR SUPERVISORY REIVEW UNDER 37 CFR 1.181 filed August 29, 2007.

Applicant filed an appeal brief on June 5, 2007, which was held non-compliant under 37 CFR 41.37 by the examiner in a "Notification of Non-Compliant Appeal Brief" mailed August 15, 2007.

The instant petition was then timely filed on August 29, 2007 and is before the Director of Technology Center 1700 for consideration. The petition requests that the Notification of Non-Compliant Appeal Brief of August 15, 2007 be withdrawn.

The petition is **GRANTED** for the reasons below.

DECISION

Initially, it is noted that the examiner vacated the Notification mailed August 15, 2007 and replaced it with a second Notification of Non-Compliant Appeal Brief mailed August 30, 2007. The instant petition and the second Notification crossed in the mail. Rather than dismissing the instant petition as moot, the merits of the petition will be considered in connection with the second Notification, the issues being essentially the same.

As stated in the Notification of August 30, 2007, the examiner held the brief non-compliant for three reasons, namely, "see advisory action,' because the status of amendment section identifies Appendix G as containing the proposed amendment of June 5, 2007 when in fact the amendment is located in Appendix H, and because the brief allegedly fails to include two sections, namely the Status of Claims section and Status of Amendments section.

On review, the Notification of August 30, 2007 fails to properly set forth any genuine defects in the brief filed June 5, 2007. Specifically, 'see advisory action' provides no explanation as to any defects in the brief. It is unclear why non-entry of an amendment under 37 CFR 41.33 should necessarily render a brief non-compliant under 37 CFR 31.37. It is true that the brief contains a typographical error in referring to Appendix H as Appendix G. However, this mistake should be considered as minor. The examiner, in the answer, should merely comment that it is assumed that the applicant meant to refer to Appendix H as constituting the proposed amendment. Finally, the assertion that the brief does not include a Status of Claims section or a Status of Amendments section is simply incorrect. The Status of Claims section spans pages 2 and 3 of the brief, while the Status of Amendments section can be found on page 3 of the brief.

As the Notification of Non-Compliant Appeal Brief mailed August 30, 2007 fails to properly identify any actual issues of non-compliance under 37 CFR 41.37, applicant's petition is hereby **GRANTED** and the Notification of August 30, 2007 is withdrawn.

The examiner shall reconsider the appeal brief of June 5, 2007 and take appropriate action in response thereto.

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

DITTHAVONG MORI & STEINER, P.C.
918 Prince St.
Alexandria VA 22314

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OCT 2 2 2002

OFFICE OF PETITIONS

In re Application of
Kritzler, et al.
Application No. 10/151,139
Filed: May 21, 2002
Attorney Docket No. 401699/BSW

DECISION ON PETITION

This is a decision on the "Petition to Review the Refusal to Grant Filing Date of Application," filed July 3, 2002, requesting that the above-identified application be accorded a filing date of May 21, 2002.

Application papers in the above-identified application were filed on May 21, 2002. However, on June 17, 2002, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application," notifying applicants that the application papers had not been accorded a filing date because the application was deposited without drawings.

In reply, petitioner filed the instant petition. Petitioner maintains that based on an incorporation by reference of prior application No. 09/720,330, this application was complete as filed, and is entitled to the filing date of May 21, 2002. Applicants request that the refusal to grant filing date should be withdrawn, and that the filing date of May 21, 2002 be accorded. Included with the petition are three (3) sheets of drawings.

A review of the application-as-filed reveals that it contained the incorporation by reference statement, incorporating the entire disclosure of prior application No. 09/720,330. MPEP 201.06 provides in, pertinent part, that:

> Material needed to accord an application a filing date may not be incorporated by reference. Therefore, if a continuation or divisional application as originally filed incorporates by reference material omitted from the application papers, which is needed to accord the application a filing date, the application will not be entitled to a filing date. A petition under 37 CFR 1.182 and the required petition fee, including an amendment submitting the necessary omitted material, requesting that the necessary omitted material contained in the prior application and submitted in the amendment, be included in the continuation or divisional application based upon the incorporation by reference statement, is required in order to accord the application a filing date as of the date of deposit of the continuation or divisional application. An amendment submitting the omitted material and relying upon the incorporation by reference will not be entered in the

continuation or divisional application unless a decision granting the petition states that the application is accorded a filing date and that the amendment will be entered.

Petitioner does not assert that the three (3) sheets of drawings were present in the application on filing. Accordingly, it is concluded that the Notice was properly mailed and will not be withdrawn. Nonetheless, the instant response has been treated as a petition under § 1.182 and the required fee has been charged to Deposit Account No. 12-1216, as authorized. In this instance, the petition is being treated as a preliminary amendment requesting entry of the three (3) sheets of drawings containing Fig. 1.

In view thereof, the petition under § 1.182 is **GRANTED**. The amendment will be entered by the examiner in due course.

This application is being forwarded to the Office of Initial Patent Examination (OIPE) for according of a filing date of May 21, 2002, using the application papers received in the Office on that date and the drawings submitted on petition filed July 3, 2002, and for indication in the records of the Office that the application contains three (3) sheets of drawings.

Telephone inquiries specific to this decision should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309.

Christina L. Donnell for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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JAN 1 0 2003

OFFICE OF PETITIONS

In re Application of :
Steven Kritzler :
Application No. 10/151,139 : NOTICE
Filed: May 21, 2002 :
Attorney Docket No. 401699/BSW :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Technology Center 1700.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, NW
Suite 800
Washington, DC 20037-3213

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OCT 12 2004

OFFICE OF PETITIONS

In re Patent No. 6,741,095 :
Issue Date: May 25, 2004 :
Application No. 10/151,186 : ON PETITION
Filed: May 21, 2002 :
Attorney Docket No. Q70183

This is a decision on the petition filed September 15, 2004, to waive the rules and accept the correction of the assignee's name on the front page of the above-identified patent.

The petition is **Dismissed**.

In the petition, petitioner requests that "ACUID Corporation (Guernsey) Limited, Guernsey British Isles" be named as the assignee in the above-identified patent. However, U.S. Patent and Trademark Office (USPTO) Assignment database records do not reflect that an assignment in the name of "ACUID Corporation (Guernsey) Limited, Guernsey British Isles" was ever recorded prior to issuance of this patent.

37 CFR 3.81(a) permits the patent to issue to the assignee, provided that, at the time the issue fee is paid, the name of an assignee is provided. 37 CFR 3.81(b) permits that patent to issue in the name of an assignee if the assignment was submitted after payment of the issue fee but ***prior to issuance of a patent***. USPTO assignment records disclose that the assignment from two inventors; Atyunin and Vasily Grigorievich, to "ACUID Corporation Limited, Guernsey British Isles", was recorded on August 23, 2002, prior to issuance of the above patent.

In view of the above, a certificate of correction in the name of "ACUID Corporation **(Guernsey)** Limited, Guernsey British Isles" would not be in order. See MPEP Section 307. However, petitioner is entitled to receive a certificate of correction in the name of "ACUID Corporation Limited, Guernsey British Isles", as recorded August 23, 2002 in the USPTO at reel number 013226 and frame number 0447, provided that a renewed petition and a corrected form PTO/SB/44 (formerly PTO-1050), are submitted along with the $100 Certificate of Correction fee.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By Hand:
U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop PETITION
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

By Fax: Attn: Office of Petitions
(703) 872-9306

The file is being forwarded to the Files Repository.

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
P.O. Box 1450
Alexandria, VA 22313-1450
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SPINE MP
LERNER, DAVID, et al.
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

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AUG 0 4 2008

OFFICE OF PETITIONS

In re Application of :
James D. Ralph et al. :DECISION ON PETITION
Application No. 10/151,280 :UNDER 37 CFR 1.78(a)(3)
Filed: May 20, 2002 :
Attorney Docket No. F-222 :

This is a decision on the petition filed May 18, 2008 under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior-filed nonprovisional applications 09/968,046, 10/128,619, 09/906,119 and 09/982,148.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

In response to a Final Office Action mailed December 10, 2007, a Request for Continued Examination (RCE) and a reference to the prior-filed application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(5)(iii).

The reference to add the prior-filed application on page one following the first sentence

of the specification is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

The specification provided on filing did not incorporate by reference non-provisional application nos. 09/968,046, 10/128,619, 09/906,119 and 09/982,148 as does the amendment filed.

Nonetheless, petitioners have also filed an Application Data Sheet (ADS) to include the specific reference required by 35 U.S.C. § 120 .

All requirements having been satisfied, the late claim for priority under 35 U.S.C. 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications In order for this application to be entitled to the benefit of the prior-filed applications all other requirements under 35 U.S.C. 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3738 for appropriate

action on the Application Data Sheet filed May 19, 2008, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. 120 to the prior-filed applications.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/151,280	05/20/2002	3738	620	F-222	20	2

CONFIRMATION NO. 5615

CORRECTED FILING RECEIPT

51640
SPINE MP
LERNER, DAVID, et al.
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

OC00000031099514

Date Mailed: 07/21/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

James D. Ralph, Seaside Park, NJ;
Stephen Tatar, Montville, NJ;

Power of Attorney:
Joseph Errico--38131
Timothy Bortree--43506

Domestic Priority data as claimed by applicant

This application is a CIP of 09/970,479 10/04/2001 PAT 6,669,730
and is a CIP of 10/140,153 05/07/2002 ABN
and said 09/970,479 10/04/2001
is a CIP of 09/968,046 10/01/2001 ABN
which is a CIP of 09/789,936 02/15/2001 ABN
and said 10/140,153 05/07/2002
is a CIP of 09/970,479 10/04/2001 PAT 6,669,730
which is a CIP of 09/789,936 02/15/2001 ABN
and said 10/140,153 05/07/2002
is a CIP of 10/128,619 04/23/2002 PAT 6,863,689
which is a CON of 09/906,119 07/16/2001 PAT 6,607,559
and is a CON of 09/982,148 10/18/2001 PAT 6,673,113

Foreign Applications

If Required, Foreign Filing License Granted: 06/18/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/151,280**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****
Title

Tension bearing artificial disc providing a centroid of motion centrally located within an intervertebral space

Preliminary Class

623

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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SPINE MP
LERNER, DAVID, et al.
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

Mail Date: 04/22/2010

Applicant	: James D. Ralph	: DECISION ON REQUEST FOR
Patent Number	: 7604664	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/151,280	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/20/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** 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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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

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JUL 27 2007

OFFICE OF PETITIONS

In re Application of	:	
Chauvel et al.	:	
Application Number: 10/151282	:	DECISION ON PETITION
Filing Date: 05/20/2002	:	
Attorney Docket Number: TIF-34426	:	

This is a decision on the petition filed on 5 June, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 6 September, 2006, for failure to timely reply to the non-final Office action mailed on 5 June, 2006, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 18 April, 2007.

Petitioners have filed an amendment to the claims as the required reply.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[2] In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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, is being mailed solely to the address of record.

This application is being referred to Technology Center Art Unit 2195 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc:

ALAN LINTEL
14785 PRESTON ROAD, SUITE 650
DALLAS TX 75254

---

[2] See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1208 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

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Epstein, Edell, Shapiro, Finnan & Lytle, LLC
Suite 400
1901 Research Boulevard
Rockville, MD 20850

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JAN 0 4 2007

OFFICE OF PETITIONS

In re Application of Hissong :
Application No. 10/151,301 : Decision on Petition
Filing Date: May 21, 2002 :
Attorney Docket No. 2401.133.US :

This is a decision on the petition under 37 CFR 1.137(b), filed October 11, 2006, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability mailed May 24, 2006, which set a period for reply of three (3) months. The above-identified application became abandoned on August 25, 2006. A Notice of Abandonment was mailed on September 28, 2006.

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 Office of Publications will be informed of the instant decision and will take steps to have the application issued as a patent.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

G.E. EHRLICH (1995) LTD.
c/o ANTHONY CASTORINA
SUITE 207
2001 JEFFERSON DAVIS HIGHWAY
ARLINGTON VA 22202

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OCT 2 5 2005

OFFICE OF PETITIONS

In re Application of
Roni Zvuloni et al.
Application No. 10/151,310
Filed: May 21, 2002
Attorney Docket No. 01/22111
Title: APPARATUS AND METHOD FOR CRYOSURGERY WITHIN A BODY CAVITY

DECISION GRANTING
PETITION UNDER 37 C.F.R. §1.137(b)

This is a decision on the petition filed September 28, 2005, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R §1.113 in a timely manner to the final Office action mailed January 26, 2005, which set a shortened statutory period for reply of three (3) months. On July 21, 2005, an amendment was filed along with a Request for Continued Examination (RCE) under 37 C.F.R. §1.114 and a three-month extension of time. Unfortunately, it does not appear that Petitioner's Deposit Account contained the sufficient funds at the time of this filing. Accordingly, the above-identified application became abandoned on April 27, 2005.

1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

With the present petition, petitioner has filed the petition fee, the fee associated with the filing of a RCE, and the proper statement of unintentional delay. The RCE has been accepted as the required reply under 37 C.F.R. §1.137(b)(1). The amendment submitted on July 21, 2005 shall serve as the required submission.

As such, the petition is **GRANTED**.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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TIMOTHY J. KEEFER
SEYFARTH, SHAW, LLP
55 MONROE STREET
SUITE 4200
CHICAGO IL 60603-5803

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JAN 13 2006

OFFICE OF PETITIONS

In re Application of
Mohamad Sawan et al.
Application No. 10/151,315
Filed: May 21, 2002
Attorney Docket No. 7241-36US-1 JA/ld

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b),[1] filed November 11, 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 January 4, 2005. A shortened statutory period of three months was set for replying Final Office Action. No extensions of time having been filed, the application became abandoned April 5, 2005. Accordingly, a Notice of Abandonment was mailed July 13, 2005.

In response to the Final Office Action mailed April 18, 2005, petitioner has submitted a

[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)).

Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

This matter is being referred to Technology Center 3766 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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DARRELL F. MARQUETTE
KARSTEN MANUFACTURING CORPORATION
2201 W. DESERT COVE
PHOENIX AZ 85029

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AUG 30 2005

OFFICE OF PETITIONS

In re Application of :
David E. Wright et al :
Application No. 10/151,346 : ON PETITION
Filed: May 20, 2002 :
Attorney Docket No. 39965.0300 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 20, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the nonfinal Office action mailed October 19, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 20, 2005.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 1764.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
SNELL & WILMER
ONE ARIZONA CENTER
400 EAST VAN BUREN
PHOENIX, ARIZONA 85004-2202

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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MAR 10 2004

Paper No. 15

In re Application of
Tetsuya Murakami *et al*
Application No. 10/151,350
Filed: May 20, 2002
Attorney Docket No. ONDAT-021US

: DECISION ON PETITION

This is a decision on the petition filed by facsimile transmission on January 6, 2004 by which petitioners request the exercise of supervisory authority to approve the amendment filed on July 25, 2003 as being a fully responsive reply to the Office letter dated April 25, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is dismissed.

It appears from the record that this on April 25, 2003, the examiner promulgated a non-final action in which claims 1-24, all of the pending claims, were examined on the merits of patentability. See paper No. 9. In reply thereto, petitioners filed a paper on July 25, 2003 in which, *inter alia*, petitioners amended claims 1 to recited that the claimed invention included "engagement projections" which are moved "up and down." See paper No. 10, page 2. In paper No. 11, dated October 6, 2003, the examiner held that this amendment made paper No. 10 nonresponsive to the outstanding Office action per MPEP § 821.03 because the amendment allegedly canceled all claims drawn to the elected invention and presented only claims drawn to a non-elected invention. Petitioners requested reconsideration, paper No. 12, and in paper No. 13, the examiner clarified and adhered to his position. Specifically, the examiner's position is that as originally filed, claim 1 was generic to all species, while on the other hand, originally filed claim 13 was directed to the species of Figures 14a and 14b. The examiner asserts that after the July 25, 2003 amendment, claim 1 is limited to a species other than the species of Figures 14a and 14b is now limited to a single species. The examiner believes that MPEP § 821.03 precludes petitioners from obtaining an examination on a species that was not previously presented in the application, after petitioners have had an examination of a different species.

Petitioners argue that the original claims did not constructively elect the embodiment of Figures 14a and (b) because of the presence of claims that were readable on other embodiments. Petitioners therefore conclude that MPEP § 821.03 is inapplicable and that the amendment presented on July 25, 2003 was not nonresponsive to the outstanding Office letter. Petitioners note that they have not canceled any claims and in making this argument, petitioners appear to imply that MPEP § 821.03 does not apply to the present record. Petitioners further argue that inasmuch as paper No. 9 was a nonfinal action, they have the right to amend the claims pursuant to 37 CFR 1.111 and 1.112. Petitioners also rely upon 37 CFR 1.145, and believe that the regulation states that an election by presentation exists only if a newly submitted claim is directed to an invention that is "**distinct from and independent of** the invention **originally** claimed." (Emphasis is petitioners'.) Petitioners take the position that amended claim 1 is neither distinct from nor independent of the invention of original claim 1 and also make the same argument vis-a-vis amended claim 13. Petitioners conclude that the examiner's reliance on "constructive election" would only be proper if all of the original claims had been directed only to species of Figures 14a and 14b, and that this is simply not the case.

Petitioners' position is incorrect on several points. The basis of the practice set forth in 37 CFR 1.145 and MPEP § 821.03 is that the presentation of invention B that is independent and distinct[1] from an invention A that was previously examined on the merits of patentability will result in a requirement that the claims be restricted to the invention previously claimed. The issue is not, as petitioners have argued, whether

[1]Attention is invited to MPEP § 802.01 wherein it is explained that the phrase "independent and distinct" is properly interpreted as meaning "independent or distinct." Attention is also invited to MPEP § 806.04(b) wherein it is explained that, subject to an exception not relevant on this record, species of a generic invention are in fact independent inventions.

the species invention presented by amended claim 1 is independent and distinct[2] from the generic invention recited in original claim 1 or in other generic claims, but is, instead, whether it is independent or distinct from the species invention previously examined. In this application, the specific embodiment of Figures 14a and 14b was examined by the examiner, and no other specific embodiment was necessarily examined. Claim 1 is now directed to a specific embodiment that the examiner regards as being patentably distinct from that of Figures 14a and 14b.

It is further noted that with respect to requiring an election of species, no election of species requirement can be promulgated unless there are claims limited to two (or more) patentably distinct species. See MPEP §§ 806.04(f) and 806.04(g). On this record, the presence of claims that were limited to only one of the disclosed species, claims that were generic or subgeneric claims, and the absence of any claim limited only to another of the disclosed species, precluded the examiner from requiring an election of species in the first Office action on the merits. These facts, however, do not abrogate the practice in MPEP § 819 regarding shifting an invention that has been elected, and petitioners' attention is invited to the fact that the practice regarding shifting of inventions is not limited to express elections only.

Similarly, neither 37 CFR 1.145 nor the practice in § 821.03 is limited to express elections only. To hold that they were would permit an applicant for patent to circumvent the purpose of the regulation and the practice by the simple expedient of presenting a claim to an independent or distinct invention by amending a previously presented claim that had been directed to a different independent or distinct invention. For example, an applicant could amend a claim directed to an article of manufacture by requesting that the claim be amended by deleting all or most of the language therein, and adding language so as to end up with a claim to a patentably distinct method of making that article. The fact that the article claim might have been presented so broadly as link it to an equally broad method claim (that was not presented) does not entitle an applicant to present a more limited method claim that is clearly patentably distinct from the previously presented article claim by amendment, when the applicant could not have done so by cancellation and presenting a new claim.

In short, whether or not all claims previously examined were **canceled** in favor of the presentation of claims to an independent or patentably distinct invention from that originally examined is irrelevant. Petitioners have now **presented, for the first time**, claims limited to a species of the generic invention that has been held to be patentably distinct from the species claims that were **originally presented** for examination and that were in fact examined. It is immaterial under 37 CFR 1.145 and Office practice promulgated in accordance therewith whether in petitioners did this by cancellation of claims or amendment of claims or both. Petitioners will be permitted to present claims to species other than the originally claimed species of Figures 14a and 14b in accordance with 37 CFR 1.141(a) and the practice set forth in MPEP § 809.02(c). Absent allowance of a generic claim, petitioners will be required to comply with the examiner's requirement that restricts prosecution of a single species to the species of Figures 14a and 14b as originally presented and examined.

Petitioners may present a renewed petition, without fee, if the renewed petition is timely filed in accordance with 37 CFR 1.181(f). Petitioners are reminded that pursuant to 37 CFR 1.181(f), the period for filing a reply to the outstanding Office action continues to run as set therein, and is not stayed by the presentation of the instant petition or any request for reconsideration thereof.

PETITION DISMISSED.

E. Rollins-Cross, Director
Technology Center 3700

Stout, Uxa, Buyan & Mullins, L.L.P.
4 Venture, Suite 300
Irvine, CA 92618

---

[2]Note 1, *ibid*

UNITED STATES 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. 19

STOUT, UXA, BUYAN & MULLINS LLP
4 VENTURE, SUITE 300
IRVINE, CA 92618

COPY MAILED

JUN 2 2 2004

OFFICE OF PETITIONS

In re Application of :
Murakami, et al. :
Application No. 10/151,350 : ON PETITION
Filed: May 20, 2002 :
Attorney Docket No. ONDAT-021US :

This is a decision on the petition under 37 CFR 1.137(b), filed June 4, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the Office action mailed October 6, 2003. The October 6, 2003 Office action set a one month or 30 day (whichever is longer) period for reply. Accordingly, this application became abandoned on November 7, 2003. A Notice of Abandonment was mailed on April 19, 2004.

The file is being forwarded to Technology Center 3700 for review of the Request For Continued Examination, submitted June 4, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 20

STOUT, UXA, BUYAN & MULLINS LLP
4 VENTURE, SUITE 300
IRVINE, CA 92618

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OCT 0 6 2004

OFFICE OF PETITIONS

In re Application of :
Murakami, et al. :
Application No. 10/151,350 : ON PETITION
Filed: May 20, 2002 :
Attorney Docket No. ONDAT-021US :

This is a decision on the petition under 37 CFR 1.137(b), filed June 4, 2004, to revive the above-identified application. The decision on petition mailed June 22, 2004 is hereby vacated and replaced with the instant decision.

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 file a proper reply to the Office action mailed October 6, 2003.

A non-final Office action was issued on April 25, 2003. An amendment was submitted on July 25, 2003, but was found to be non-responsive in the Office letter mailed October 6, 2003. The Office letter of October 6, 2003 set a one month or 30 day (whichever is longer) period for reply. A reply was filed on November 6, 2003, however, this reply was also found to be non-responsive in the Office letter of December 16, 2003. Accordingly, this application became abandoned on November 7, 2003. A Notice of Abandonment was mailed on April 19, 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 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.

Petitioner submitted a Request For Continued Examination (RCE) on June 4, 2004. However, the prosecution in the application must be closed before a RCE may be submitted. As the Office action of April 25, 2003 was not final, a RCE is not an appropriate response at this time since prosecution in the application is not closed. Accordingly, petitioner must submit the required reply (e.g., the submission of a new amendment in compliance with the Office communications of October 6, 2003 and December 16, 2003 and the Decision on Petition of March 10, 2004).

The $770.00 RCE fee, submitted June 4, 2004, will be refunded to deposit account no. 50-0878.

Further correspondence with respect to this matter should be

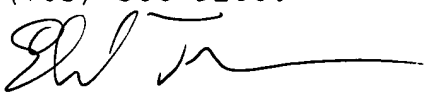
addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: Customer Service Window
2011 South Clark Place
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries should be directed to the undersigned at (703) 306-9200.



Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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STOUT, UXA, BUYAN & MULLINS LLP
4 VENTURE, SUITE 300
IRVINE, CA 92618

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JAN 31 2005

OFFICE OF PETITIONS

In re Application of :
Murakami, et al. :
Application No. 10/151,350 : ON PETITION
Filed: May 20, 2002 :
Attorney Docket No. ONDAT-021US :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed December 6, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the Office action mailed October 6, 2003. The October 6, 2003 Office action set a one month or 30 day (whichever is longer) period for reply. Accordingly, this application became abandoned on November 7, 2003. A Notice of Abandonment was mailed on April 19, 2004.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application No. 11/006,178, filed December 6, 2004.

The file is being forwarded to Files Repository.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3-1-07

TO SPE OF : ART UNIT 1754

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/151382 Patent No.: 7157068

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**.

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

1764
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3-1-07

TO SPE OF : ART UNIT 1754

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/151382 Patent No.: 7157068

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.

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

1764
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

MAY -6 2004

Paper No. 9

In re Application of
Robert E. Hogan *et al*
Application No. 10/151,388
Filed: May 2, 2002
Attorney Docket No. 769-287

DECISION ON PETITION

This is a decision on the petition filed on April 14, 2004 by which petitioners request withdrawal of the examiner's holding that this application stands abandoned for failure to file a proper and timely reply to the Office action dated August 22, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required. A refund of the $130.00 petition fee tendered with the petition will be credited to Deposit Account No. 50-1145.

The petition is granted.

Petitioners allege that this application is not abandoned because a proper reply to the Office letter in question was in fact filed on November 26, 2003. Petitioners further allege that the reply was timely filed by reason of the fact that the filing included a 37 CFR 1.8(a) certificate of mailing affixed to the reply and dated November 24, 2003, which was a Monday and therefore a date within the period set in the Office letter in question for filing a reply thereto. Petitioners support these allegations by furnishing a copy of the reply and a copy of filing receipt for the reply showing that the reply was in fact received in the Office on November 26, 2003.

Based upon the evidence furnished by petitioners, it is clear that this application is not abandoned. Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application will be forwarded to the Head Supervisory Applications Examiner who will have the reply and extension of time endorsed into the application with a filing date of November 26, 2003 and a certificate of mailing date of November 24, 2003. The $130.00 petition fee will also be refunded by crediting Deposit Account No. 50-1145. The application will then be forwarded to the examiner for action on the reply.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Gerald Levy, Esq.
Pitney, Hardin, Kipp & Szuch LLP
685 Third Avenue
New York, NY 10017-4024

Adjustment date: 05/26/2004 EMILLER
04/16/2004 CNGUYEN 00000078 10151388
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UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 3

John P. Sutton
2421 Pierce Street
San Francisco CA 94115

MAIL

OCT 21 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re application of:
James H. Alleman
Serial Number: 10/151,410
Filed: May 20, 2002
For: INTERACTIVE SYSTEM FOR OPTIMIZING SERVICE ECONOMY

DECISION ON PETITION

This is a decision on the petition filed August 12, 2002 under 37 C.F.R. § 1.102(d), to make the above-identified application special.

A grantable petition under 37 CFR 1.102(d) and MPEP 708.02, section II: Infringement, 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 has not met requirements 1-3 listed above and therefore the petition is **DENIED**.

Any request for reconsideration must be filed within TWO MONTHS from the date of this decision.

The application will be forwarded to the Technology Center's central files to await action in its normal turn.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
(703) 305-4710

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 5

John P. Sutton
2421 Pierce Street
San Francisco CA 94115

MAILED

MAR 1 8 2003

Technology Center 2600

In re application of:)
James H. Alleman)
Serial Number: 10/151,410) DECISION ON PETITION
Filed: May 20, 2002)
For: INTERACTIVE SYSTEM FOR)
OPTIMIZING SERVICE ECONOMY)

This is a decision on the request filed November 12, 2002 for reconsideration of the previously denied petition under 37 C.F.R. § 1.102(d), to make the above-identified application special.

A grantable petition under 37 CFR 1.102(d) and MPEP 708.02, section II: Infringement, 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 original petition to make special did not meet requirements 1), 2) or 3) above.

Although the instant request for reconsideration now meets requirements 1) and 2), petitioner has still failed to meet requirement 3). In regard to requirement 3), the instant request for reconsideration refers to prior art searches conducted by defendants and examiners during prosecution of applications other than the instant application. Petitioner has failed to provide a statement that he or she has made or caused to be made a careful and thorough search of the prior art deemed most pertinent to this application. Furthermore, while petitioner has provided copies of some prior art that was deemed relevant in other applications, it is not readily apparent from the request for reconsideration or its accompanying declaration that the referenced prior art has been deemed to be the prior art which is most closely related to the subject matter encompassed by the claims of the instant application.

Accordingly, the petition is **DENIED**.

Any request for reconsideration must be filed within TWO MONTHS from the date of this decision. The application will be forwarded to the Technology Center's central files to await action in its normal turn.

Krista M. Zele
Special Program Examiner
Technology Center 2600

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 7

MAIL

AUG 1 0 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

John P. Sutton
2421 Pierce Street
San Francisco, CA 94115

In re Application of :
James H. Alleman :
Application No. 10/151,410 :
Filed: May 20, 2002 :
For: INTERACTIVE SYSTEM FOR OPTIMIZING SERVICE ECONOMY :

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the renewed petition to make special filed April 30, 2004 under 37 CFR §1.102(d) to make the application special, which is being treated as a request for reconsideration of the previous decision denying the previously filed petition to make special.

A grantable petition under 37 CFR §1.102(d) and MPEP §708.02, section II (Infringement), 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 a copy of each of the references deemed most closely related to the subject matter encompassed by the claims if the references are not already of record.

The petitioner meets all the above-listed requirements in the petition filed April 30, 2004 taken together with the petition and declaration filed November 12, 2002. 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 is being forwarded to the examiner for expedited prosecution in due course.

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
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HARNESS DICKEY & PIERCE P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

COPY MAILED

OCT 30 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of
Kenneth M. De Luca et al
Application No. 10/151,428
Filed: May 20, 2002
Attorney Docket No. 3174-000016

This is a decision on the petition, filed October 29, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 23, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (703) 306-5684.

After receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2834 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/22/2008

TO SPE OF : ART UNIT 1623

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/151,436 Patent No.: 6,515,117

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

Henry Randal

Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- [X] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: The C of C has been approved.

/S. A. Jiang/ 1623

SPE **Art Unit**

PAGE 1/1 * RCVD AT 9/3/2008 2:31:14 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/33 * DNIS:2730627 * CSID:703 308 9759 * DURATION (mm-ss):00-30

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08/31/05

TO SPE OF : ART UNIT 2863

SUBJECT : Request for Certificate of Correction on Patent No.: 10/151438 6915217

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Angela Green
Certificates of Correction Branch
Tel. No. 703-305-9380 ext. 123

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☑ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments:

_____

_____

_____

_____

_____

SPE **Art Unit** 2863

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

Giaccherini
Post Office Box 1146
Carmel Valley CA 93924

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DEC 18 2006

OFFICE OF PETITIONS

In re Application of :
Thomas Nello Giaccherini :
Application No. 10/151,470 :
Filed: May 20, 2002 :
Attorney Docket No. HALO2001-1 :
Title: INVENTORY & LOCATION :
SYSTEM :

DECISION ON PETITION
UNDER 37 C.F.R. §1.181

This is a decision on the petition filed on October 2, 2006, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed February 13, 2006, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on May 14, 2006. A notice of abandonment was mailed on September 19, 2006.

With the present petition, Petitioner has alleged that the mailing was not received. 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. In addition, a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement[1].

1 See MPEP 711.03(c).

Petitioner has met the requirements of Delgar v. Schuyler, 172 USPQ 513 (D.D.C. 1971), in that he has asserted that the Office communication was not received, that he has searched both the file jacket and the docket record, and he has included a copy of the latter.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met her burden of establishing that the mailing was not received.

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Technology Center will be notified of this decision. The Technology Center's support staff will re-mail the communication of February 13, 2006, 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).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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THE ECLIPSE GROUP LLP
10605 BALBOA BLVD SUITE 300
GRANADA HILLS CA 91344

MAILED

FEB 18 2010

OFFICE OF PETITIONS

In re Application of :
Young, et al. :
Application No. 10/151,471 : ON PETITION
Filed: May 17, 2002 :
Attorney Docket No. ST01001USU :

This is in response to petition to revive an unintentionally abandoned application under 37 CFR 1.137(b), filed December 16, 2009.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper response to the final Office action, mailed May 27, 2009, which set a shortened statutory period for reply of three months. Applicant filed an Amendment on October 27, 2009, made timely by obtaining a two month extension of time. However, the Amendment was not entered because it failed to place the application in condition for allowance, and Applicants were advised of such in an Advisory Action mailed on December 2, 2009. No further proper reply with an extension of time having been received, the application became abandoned on October 28, 2009. The Office mailing of this decision precedes the mailing of a courtesy Notice of Abandonment.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of an RCE.

The application is being forwarded to Group Art Unit 2614 for consideration of the RCE, filed December 16, 2009.

Telephone inquiries concerning this decision may be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Danita J.M. Maseles - Intellectual Property Counsel
Schlumberger Information Systems
5599 San Felipe, Suite 1700
Houston TX 77056

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DEC 19 2006
OFFICE OF PETITIONS

In re Application of :
Endres et al. :
Application No. 10/151,473 : DECISION ON PETITION
Filed: May 17, 2002 :
Attorney Docket No. 59.0050 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 13, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to a non-final Office Action mailed November 1, 2005. The non-final Office Action set a three (3) month shortened statutory period for reply. No timely request for extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on February 2, 2006. A Notice of Abandonment was mailed on September 7, 2006.

This petition is hereby **GRANTED**.

All future correspondence should contain the correct application no. 10/151,**473**.

This application is being forwarded to Technology Center 2100 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MYERS BIGEL SIBLEY & SAJOVEC
P O BOX 37428
RALEIGH, NC 27627

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JAN 0 5 2006

OFFICE OF PETITIONS

In re Application of	:	
Gary M. Kammer et al	:	
Application No. 10/151,481	:	DECISION GRANTING PETITION
Filed: May 20, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 9151-101P	:	

This is a decision on the petition, filed January 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 September 27, 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 1651.

Frances Hicks
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b) (along with any balance due at the time of payment), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* **must** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

SHANTANU BASU
MORRISON & FOESTER LLP
755 PAGE MILL ROAD
PALO ALTO, CA 94304-1018

In re Application of
LIU, Zhiping
Application No. 10/151,484
Filed: May 16, 2002
Attorney Docket No. 501332000120

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 16, 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 "at the request of assignee Apollo Biotechnology, Inc." 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 request to withdraw as attorney filed on March 16, 2007 does not include one of the above two options.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **JOSEPH LIEBESCHUETZ PH.D.**
TOWNSEND TOWNSEND & CREW LLP
379 LYTTON AVENUE
PALO ALTO, CA 94301-1431

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

Lisa K. Jorgenson, Esq.
STMicroelectronics, Inc.
1310 Electronics Drive
Carrollton, TX 75006-5039

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SEP 19 2002

OFFICE OF PETITIONS

In re Application of :
Darbel, et al. :
Application No. 10/151,485 : DECISION ON PETITION
Filed: May 16, 2002 :
Attorney Docket No. 02-LJ-023 :

This is a decision on the "Petition under 37 CFR § 1.10(c) to Correct Filing Date and Date-In Discrepancy" filed August 27, 2002, requesting that the above-identified application be accorded a filing date of May 16, 2002, rather than the presently accorded filing date of May 17, 2002. This petition is properly considered under § 1.10(d).[1]

Petitioner maintains that the above-identified application was deposited with the Office by way of the "Express Mail Post Office to Addressee" service of the United States Postal Service on May 16, 2002, under Express Mail mailing label No. EL916648702US, pursuant to §1.10(a). However, the USPS incorrectly entered a "date-in" of May 17, 2002, and thus, the Office incorrectly accorded the application a filing date of May 17, 2002. Petitioner states that they discovered the "discrepancy" in the filing date upon receiving their filing receipt. In support of the petition, petitioner submits *inter alia* a true copy of the filing transmittal letter and of Express Mail mailing label No. EL916648702US.

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[1] (d) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and

(3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

Having considered petitioner's arguments and evidence, it is concluded that the instant petition was filed promptly within the meaning of § 1.10(d)(1). Furthermore, a review of the application papers presently accorded a filing date of May 17, 2002 reveals that the "Express Mail" mailing label No. EL916648702US is present on both the transmittal letter and the first page of the specification. Thus, it is concluded that the number was placed on the papers that constitute the correspondence prior to mailing as required by § 1.10(d)(2)

Moreover, a review of the true copy of the "Express Mail" mailing label reveals a handwritten "date-in" of May 17, 2002 and an official stamp of the USPS dated May 16, 2002. Furthermore, a review of the USPS track/confirm website reveals a shipment history for the "Express Mail" package mailed under No. EL916648702US. Per this history prepared by the USPS, this package was accepted "May 16, 2002, 8:36 pm, DALLAS, TX 75222."

In view thereof, the petition is granted.

No petition fee is necessary and none has been charged.

This application is being sent from the Office of Petitions to the Office of Initial Patent Examination for correction of the filing date to May 16, 2002 and mailing of a corrected filing receipt.

Telephone inquiries specific to this decision may 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

Enclosure: USPS website Shipment History

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

March 3, 2004

Joseph B. Ryan
Ryan, Mason & Lewis
90 Forest Ave.
Locust Valley, NY 11560

In re application of:
C.N. Didcock, et al DECISION ON PETITION
Serial No.: 10/151,486
Filed: May 20, 2002
For: IMPROVED ARCHITECTURE FOR UNIFIED MESSAGING

In response to the petition received on January 30, 2004, to withdraw the holding of abandonment in the above-identified application.

The Notice to File Missing Parts of Nonprovisional Application was mailed on June 19, 2002. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned August 20, 2002. The notice of abandonment was mailed on January 20, 2004.

The Notice of Abandonment issued on January 20, 2004, in the above identified-application was issued in error.

The response received on August 19, 2002, has been located but the declaration remains lost. The declaration received with the petition on January 30, 2004 will be used to complete the above-identified application.

The petition is hereby Granted.

The application has been completed and released to Technology Center 2645.

The office regrets any inconvenience this may have caused counsel.

Telephone inquiries concerning this matter my be directed to Doshie E. Day
(703) 305-7654.

Doshie E. Day
Office of Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 3

MAIL

NOV 1 2 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

KING & SPALDING
191 PEACHTREE STREET, N.E.
ATLANTA GA 30303-1763

In re Application of :
Whittlesey et al. :
Application No. 10/151490 :
Filed: May 20, 2002 :
For: SYSTEM AND METHOD FOR COMMUNICATING OPTICAL SIGNALS TO MULTIPLE SUBSCRIBERS HAVING VARIOUS BANDWIDTH DEMANDS CONNECTED TO THE SAME OPTICAL WAVEGUIDE :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on September 4, 2002.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

Josephine Young is removed as attorney of record.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Reinhard J. Eisenzopf
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4711

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GREENBERG TRAURIG LLP
77 WEST WACKER DRIVE, SUITE 2500
CHICAGO, IL 60601-1732

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OFFICE OF PETITIONS

In re Application of :
Han-Sheng Yuh et al :
Application No. 10/151,501 : DECISION GRANTING PETITION
Filed: May 20, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 81230.74US1 :

This is a decision on the petition, filed August 2, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on November 14, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until

the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A "Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing," which sets forth the projected publication date of January 12, 2006, has been mailed under separate cover.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center Art Unit for appropriate action as the nature of the case requires.

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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THOMAS F. BERGERT
WILLIAMS MULLEN
SUITE 700
8270 GREENSBORO DRIVE
MCLEAN, VA 22102

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JUL 21 2005

OFFICE OF PETITIONS

In re Application of	:
Gregory E. Day	:DECISION GRANTING PETITION
Application No. 10/151,559	:UNDER 37 CFR 1.137(b)
Filed: May 20, 2002	:
Attorney Docket No. 033269.0001	:

This is a decision on the petition, filed May 17, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition under 37 CFR 1.137(f) is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on May 20, 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 USPTO of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

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 27, 2005 accompanies this decision on petition.

A Notice of Allowability and a Notice of Allowance and Fee(s) Due were mailed in this case on February 18, 2005. However, in view of the nonpublication request filed with the application, the Notice of Allowance and Fee(s) Due mailed in this case did not require the submission of a publication fee. Therefore, in view of the rescinding of the nonpublication request, a Notice of Publication Fee Due is being mailed with the instant decision on petition. Petitioner should note that payment of the publication fee is required to be filed within the period set forth in the Notice to avoid abandonment of the application.

This matter is being referred to Publishing Division to await a reply to the Notice of Publication Fee Due mailed July 21, 2005.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3220.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENTS: Notice Regarding Rescission of Nonpublication Request
Notice of Publication Fee Due

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 5

MAIL

APR 0 9 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

MYERS BIGEL SIBLEY & SAJOVEC
P.O. BOX 37428
RALEIGH, NC 27627

In re Application of
KARABINIS

Application No. 10/151,567
Filed: May 20, 2002
For: WIRELESS COMMUNICATIONS SYSTEMS AND METHODS USING SATELLITE-LINKED REMOTE TERMINAL INTERFACE SUBSYSTEMS

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request for Withdrawal as attorney or agent and change of address filed on March 12, 2004.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All attorneys/agents associated with Customer Number 20792 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 Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

CC: Shaw Pittman LLP
1650 Tysons Boulevard
McLean, VA 22102-4859

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 24, 2009

TO SPE OF : ART UNIT 1649
SUBJECT : Request for Certificate of Correction for Appl. No.: 10/151569 / 7 153664

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 120

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**

1649 **Art Unit**

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6653191	2003-11-25	10151576	2002-05-16	AF01141

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Mikio Ishimaru/	Date (YYYY-MM-DD)	2008-02-04
Name	Mikio Ishimaru	Registration Number	27449

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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In re Patent No. 6653191
Issue Date: November 25,2003
Application No. 10151576
Filed: May 16,2002
Attorney Docket No. AF01141

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 4,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 4,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in 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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SoCAL IP LAW GROUP LLP
310 N. WESTLAKE BLVD. STE 120
WESTLAKE VILLAGE CA 91362

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DEC 19 2006

OFFICE OF PETITIONS

In re Application of	:	
Nadim Shaikli	:	
Application No. 10/151,582	:	DECISION ON PETITION
Filed: May 16, 2002	:	UNDER 37 CFR 1.313(c)(3)
Attorney Docket No. 6979-0028	:	

This is a decision on the petition, filed December 15, 2006, 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**.

Petitioner requests that the above-identified application be withdrawn from issue for express abandonment in favor of a continuing application. *See* 37 CFR 1.313(c)(3).

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

Telephone inquiries regarding this decision should be directed to April Wise at (571) 272-1642.

Frances M. Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Paper No. 7

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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APR 23 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Jesse E. Chen :
Application No. 10/151,597 :
Filed: May 16, 2002 :
For: METHOD FOR CALIBRATING A DC OFFSET CANCELLATION LEVEL FOR DIRECT CONVERSION RECEIVERS :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on April 1, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED.**

All attorneys associated with Customer No. 20,350 are granted the request for withdraw of attorney/agent. All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth A. Wieder

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: BENJAMIN S. WITHROW
WITHROW & TERRANOVA, P.L.L.C.
201 SHANNON OAKS CIRCLE, SUITE 200
CARY NC 27511

#6

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TECHNOLOGY CENTER 2100

Paper No. 6

Brian M. Hoffman
FENWICK & WEST L.L.P.
Silicon Valley Center
801 California Street
Mountain View, CA 94041

In re Application of:
Peter Szor
Application No. 10/151,598
Filed: May 16, 2002
For: COUNTERING INFECTIONS TO COMMUNICATIONS MODULES

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed June 03, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed June 03, 2004 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

/JRM/ James R. Matthews

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

cc: Edward J. Radlo
SONNENSCHEIN NATH & ROSENTHAL LLP
685 Market Street, 6th Floor
San Francisco, CA 94105

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VAN OPHEM & VANOPHEM, PC
REMY J VANOPHEM, PC
51543 VAN DYKE
SHELBY TOWNSHIP MI 48316-4447

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OFFICE OF PETITIONS

In re Application of
Passeno :
Application No. 10/151,606 :
Filing Date: 20 May, 2002
Attorney Docket No. PJK103A US :

This is a decision on the petition filed on 21 October, 2004, alleging unintentional delay under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition as considered under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the final Office action mailed on 6 April, 2004, with response due absent extension of time on or before 6 July, 2004;
- the application went abandoned after midnight 6 July, 2004;
- it does not appear that the Office mailed the Notice of Abandonment before the instant petition was filed;

- on 10 September, 2004, Petitioner filed an after-final amendment (without benefit of a certificate of mailing or request and fee for extension of time) which is not a proper reply[1] if it does not *prima facie* place the application in condition for allowance;

- Petitioner filed with the instant petition (and fee) the reply in the form of a request for continued examination (RCE), fee, and submission in the form of the after-final 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).[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]

---

[1] The proper response to the final Office action (see: MPEP 711.03(c)) must be in the form of: (a) an amendment *prima facie* placing the application in condition for allowance; (b) a Notice of Appeal; or (c) a Continuing Application or Request for Continued Examination (RCE) (with fee and submission) under 37 C.F.R. §1.114.

[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 requirements of the regulation.

CONCLUSION

The instant petition under 37 C.F.R. §1.137(b) hereby is **granted**.

The instant application is released to Technology Center 3600 for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[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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#5

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Office of the Director
Group 3600

BRIAN ROFFE, ESQ
11 SUNRISE PLAZA, SUITE 303
VALLEY STREAM, NY 11580-6170

Paper No. 5

In re application of :
David S. Breed et al. :
Application No. 10/151,615 :
Filed: May 20, 2002 :
For: VEHICLE OBJECT DETECTION SYSTEM AND METHOD

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on October 20, 2003 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a copy of a passport from the applicant showing that he is at least 65 years of age.

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

SNM/cps 11/17/03

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AGILENT TECHNOLOGIES, INC.
Legal Department, DL429
Intellectual Property Administration
P.O. Box 7599
Loveland, CO 80537-0599

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AUG 16 2004

OFFICE OF PETITIONS

In re Application of :
Jeffrey N. Miller, et al. :
Application No. 10/151,631 : ON PETITION
Filed: May 16, 2002 :
Attorney Docket No. 10010964-1 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 27, 2004, to revive the above-identified application.

This application became abandoned for failure to timely reply to the final Office action mailed November 17, 2003. A Notice of Abandonment was mailed on June 1, 2004.

The application is revived for consideration of a submission under 37 CFR 1.114 (request for continued examination).

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-9220.

The application file is being forwarded to Technology Center AU 2812, for further processing of the request for continued examination under 37 CFR 1.114 filed May 27, 2004.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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United States Patent and Trademark Office
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OCT 26 2005

In re Application of	:	
Henrik S. Rasmussen et al	:	NOTICE OF WITHDRAWAL
Serial No. 10/151,633	:	FROM ISSUE
Filed: May 17, 2003	:	UNDER 37 CFR 1.313(b)
For: THERAPEUTIC REGIMEN FOR TREATING CANCER COMPRISING THE ADMINSTRATION OF ADENOVIRAL VECTORS COMPRISING A TNF-A TRANSGENE	:	

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The application is being withdrawn to permit reopening of prosecution. The reasons therefore will be communicated to you by the examiner.

PTO records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a deposit account.

The application is being forwarded to the examiner for action.

Bruce M. Kisliuk, Director
Technology Center 1600

LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO IL 60601-6780

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Paper No. 5

JOHN W. CARPENTER
CROSBY, HEAFEY, ROACH & MEY
SUITE 2000
2 EMBARCADERO CENTER
SAN FRANCISCO CA 94111

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AUG 19 2003

OFFICE OF PETITIONS

In re Application of :
Yuasa et al. : DECISION ON PETITION
Application No. 10/151,672 : UNDER 37 CFR 1.78(a)(3)
Filed: 20 May, 2002 :
For: 21778.05800 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on 24 June, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior-filed PCT Application No. PCT/JP01/08181, filed on 20 September, 2001.

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 29 November, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) of the prior-filed application, unless previously submitted;[1]

(2) the surcharge set forth in § 1.17(t); and

[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 and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate. (see § 1.14).

> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The present pending application was filed on 20 May, 2002, and was copending with the above-noted, prior-filed international application, at the time of filing, for which priority is claimed. 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, which was filed concurrently with the present petition under 37 CFR 1.78(a)(3).

The present nonprovisional application was filed after 29 November, 2000, and the claim for priority herein is submitted after the expiration of the period specified in 37 CFR 1.78(a)(2). Also, the reference to the prior-filed nonprovisional was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the present petition satisfies the conditions of 37 CFR 1.78(a)(3) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. § 120, the petition to accept an unintentionally delayed claim to benefit to prior-filed Application No. PCT/JP01/08181 is granted as of the date of filing the petition.

The benefit claim has been entered in Office records. A corrected Filing Receipt accompanies this decision.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

Petitioners are advised that in future filings, any amendment must be filed in a separate paper to avoid confusion.[2]

The address listed on the petition filed on 24 June, 2003, is different than the correspondence address of record. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The application is being forwarded to Technology Center 2600 for processing the amendment embodied in the petition filed on 24 June, 2003, and for consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(3) for the benefit of the above-noted, prior-filed international application.

Telephone inquiries related to this decision should be directed to Senior Petitions Attorney Douglas I. Wood at 703-308-6918.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

Encl: Corrected Filing Receipt

cc: REED SMITH CROSBY HEAFEY LLP
TWO EMBARCADERO CENTER
SUITE 2000
P.O. BOX 7936
SAN FRANCISCO, CA 94120-7936

[2] See 37 CFR 1.4(c).

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Crosby, Heafey, Roach & May

JOHN W. CARPENTER
CROSBY, HEAFEY, ROACH & MEY
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2 EMBARCADERO CENTER
SAN FRANCISCO CA 94111

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AUG 1 9 2003

OFFICE OF PETITIONS

In re Application of
Yuasa et al.
Application No. 10/151,672
Filed: 20 May, 2002
For: 21778.05800

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on 24 June, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior-filed PCT Application No. PCT/JP01/08181, filed on 20 September, 2001.

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 29 November, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) of the prior-filed application, unless previously submitted;[1]

(2) the surcharge set forth in § 1.17(t); and

[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 and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate. (*see* § 1.14).

> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The present pending application was filed on 20 May, 2002, and was copending with the above-noted, prior-filed international application, at the time of filing, for which priority is claimed. 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, which was filed concurrently with the present petition under 37 CFR 1.78(a)(3).

The present nonprovisional application was filed after 29 November, 2000, and the claim for priority herein is submitted after the expiration of the period specified in 37 CFR 1.78(a)(2). Also, the reference to the prior-filed nonprovisional was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the present petition satisfies the conditions of 37 CFR 1.78(a)(3) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. § 120, the petition to accept an unintentionally delayed claim to benefit to prior-filed Application No. PCT/JP01/08181 is granted as of the date of filing the petition.

The benefit claim has been entered in Office records. A corrected Filing Receipt accompanies this decision.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

Petitioners are advised that in future filings, any amendment must be filed in a separate paper to avoid confusion.[2]

The address listed on the petition filed on 24 June, 2003, is different than the correspondence address of record. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The application is being forwarded to Technology Center 2600 for processing the amendment embodied in the petition filed on 24 June, 2003, and for consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(3) for the benefit of the above-noted, prior-filed international application.

Telephone inquiries related to this decision should be directed to Senior Petitions Attorney Douglas I. Wood at 703-308-6918.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

Encl: Corrected Filing Receipt

cc: REED SMITH CROSBY HEAFEY LLP
TWO EMBARCADERO CENTER
SUITE 2000
P.O. BOX 7936
SAN FRANCISCO, CA 94120-7936

[2] See 37 CFR 1.4(c).

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UNITED STATES PATENT AND TRADEMARK OFFICE
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K. S. Cornaby
Jones, Waldo, Holbrook & McDonough
170 South Main Street, Suite 1500
Salt Lake City, UT 84101-1644

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OFFICE OF PETITIONS

In re Application of :
Richard A. Williams :
Application No. 10/151,677 : ON PETITION
Filed: May 20, 2002 :
Attorney Docket No. 12685.0001 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 7, 2004, to revive the above-identified application.

The petition is **GRANTED**.

In accordance with 37 CFR 1.34(a), the signature of Jeffrey Moy appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. However, if Mr. Moy desires to receive future correspondence regarding this application, an appropriate power of attorney or authorization of agent must be submitted. The power of attorney filed with the petition is improper in that the certificate under 37 CFR 3.73(b) was not enclosed, as stated in the power of attorney form. Nevertheless, a courtesy copy of this decision is being mailed to petitioner. All future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to Technology Center 3600.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Weiss & Moy
4204 North Brown Avenue
Scottsdale, AZ 85251

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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ROBERTS ABOKHAIR & MARDULA, LLC
SUITE 1000
11800 SUNRISE VALLEY DRIVE
RESTON VA 20191-5302

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FEB 0 4 2008

OFFICE OF PETITIONS

In re Application of :

SCHULZE, Arthur E. et al. :
Application No. 10/151,688 : DECISION ON PETITION
Filed: May 20, 2002 : TO WITHDRAW
Attorney Docket No. **2612-004** : 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 21, 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, patent has issued, does not meet any of the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **RANDALL J. MCDONALD, ESQ.**
I-MEDIK, INC.
MILLER STRATVERT LAW OFFICES
P.O. BOX 25887

UNITED STATES PATENT AND TRADEMARK OFFICE

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SUITE 1000
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RESTON VA 20191-5302

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MAR 2 4 2008

OFFICE OF PETITIONS

In re Application of :
SCHULZE, Arthur E. et al. :
Application No. 10/151,688 :
Filed: May 20, 2002 :
Attorney Docket No. **2612-004** :

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 February 13, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because there remains less than 30 (thirty days) between the date of this decision and the maximum extendable time period for filing a response to the Office action mailed on October 7, 2007.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **RANDALL J. MCDONALD**
I-MEDIK, INC.
MILLER STRATVERT LAW OFFICES
P.O. BOX 25687
ALBUQUERQUE, NM 87125

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/151,708	05/17/2002	Roy Schoon	5384/55375	3616

7590 05/05/2005

Keith E George Esq
McDermott Will & Emery
600 13th Street NW
Washington, DC 20005-3096

EXAMINER	
GIBSON, RANDY W	
ART UNIT	PAPER NUMBER
2841	

DATE MAILED: 05/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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EK

Paper No. 04072005

Keith E George Esq
McDermott Will & Emery
600 13th Street NW
Washington DC 20005-3096

APR 25 2005

In re Application of
ROY SCHOON et al.
Application No. 10/151,708
Filed: May 17, 2002
Attorney Docket No. 5384/55375

DECISION ON PETITION

This is a decision on the petition filed January 21, 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 final Office action was mailed on May 13, 2004, setting forth a three-month period of response. The application became abandoned on August 13, 2004 by operation of law.

Petitioner states that the final Office action was never received by applicant's representative and attests to the fact that a search of the file jacket and docket records indicates that the final Office action was not received. The petition is accompanied by a copy of the docket records, the Office's master docket list and a copy of the daily reminder calendar maintained by the assigned attorney's secretary where the final Office action would have been entered.

Pursuant to M.P.E.P. §711.03(c), it is the petitioner's burden to demonstrate that the 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),

Applicant 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, applicant has provided a copy of the docket record, a copy of the Office's master docket list and a copy of the daily reminder calendar maintained by the assigned attorney's secretary where the final Office action would have been entered 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 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 (571-171-1569.

Richard K. Seidel, Director
Technology Center 2800
Semiconductor, Electrical and Optical
Systems and Components

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caj

Mailed : 12-14-06

In re Application of : DECISION ON
Douglas Fjare : PETITION
Serial No. 10/151,746 :
Filed: May 17, 2002
For: REINFORCED UNSATURATED POLYESTER RESIN COMPOSITIONS

This is a decision on the PETITION UNDER 37 CFR 1.181 TO DESIGNATE A NEW GROUND OF REJECTION IN EXAMINER'S ANSWER filed on February 11, 2006.

On September 13, 2005, an appeal brief was filed by applicants. On December 9, 2005, an Examiner's Answer was mailed in response to said brief.

On February 11, 2006, the instant petition under 37 CFR 1.181 was timely filed to formally request that a new ground of rejection be designated in the Examiner's Answer.

DECISION

Petitioner argues that the Examiner's Answer contains a new ground of rejection not identified as such. On pages 5-6 of the answer, the Examiner states "However, even looking at JP '247 alone without Butler, since Appellants are claiming a range with an endpoint of 'about' 0.65 and JP '247 teaches a value in the range of 0.7-1.3, the range of JP '247 overlaps with the range claimed by Appellant, since 'about' 0.65 as claimed by Appellant would overlap with a value in the range of 0.7 as taught by JP '247." It is Petitioner's position that the interpretation of the limitation "about 0.65,", newly provided in the Answer is a new ground of rejection.

Section 1207.03 of the MPEP states:

37 CFR 41.39(a)(2) permits the entry of a new ground of rejection in an examiner's answer mailed on or after September 13, 2004. New grounds of rejection in an examiner's answer are envisioned to be rare, rather than a routine occurrence. For example, where appellant made a new argument for the first time in the appeal brief, the examiner may include a new ground of rejection in an examiner's answer to address the newly presented argument by adding a secondary reference from the prior art on the record. New grounds of rejection are not limited to only a rejection made in response to an argument presented for the first time in an appeal brief. At the time of preparing the answer to an appeal brief, the examiner may decide that he or she should apply a new ground of rejection against some or all of the appealed claims. In

such an instance where a new ground of rejection is necessary, the examiner should either reopen prosecution or set forth the new ground of rejection in the answer. The examiner must obtain supervisory approval in order to reopen prosecution after an appeal. See MPEP §1002.02(d) and § 1207.04. A supplemental examiner's answer cannot include a new ground of rejection, except when a supplemental answer is written in response to a remand by the Board for further consideration of a rejection under 37 CFR 41.50(a). See MPEP § 1207.05.

Any new ground of rejection made by an examiner in an answer must be:

(A) approved by a Technology Center (TC) Director or designee; and

(B) prominently identified in the "Grounds of Rejection to be Reviewed on Appeal" section and the "Grounds of Rejection" section of the answer (see MPEP § 1207.02). The examiner may use form paragraph 12.154.04.

There is no new ground of rejection when the basic thrust of the rejection remains the same such that an appellant has been given a fair opportunity to react to the rejection. See *In re Kronig*, 539 F.2d 1300, 1302-03, 190 USPQ 425, 426-27 (CCPA 1976). Where the statutory basis for the rejection remains the same, and the evidence relied upon in support of the rejection remains the same, a change in the discussion of, or rationale in support of, the rejection does not necessarily constitute a new ground of rejection. *Id.* at 1303, 190 USPQ at 427 (reliance upon fewer references in affirming a rejection under 35 U.S.C. 103 does not constitute a new ground of rejection).

In the instant application, the statutory basis for the rejection remains the same as that which was set forth in the final rejection. In response to Petitioner's argument that the Examiner raised the issue of "about 0.65" overlapping the range taught by the JP '247 reference for the first time in the Examiner's Answer thereby not giving Appellants a chance to respond to this position, attention is directed to page 5 of the Examiner's answer. The Examiner states that "it is noted initially that Butler is relied on for the teachings relative to the polyester resin composition and Butler teaches a hydroxyl group to isocyanate group ratio of O. 1 -10, so Butler anticipates the range of 0.7-1.3 shown in JP '247 as well as the claimed range." It is this same position which is set forth in the Final Office Action mailed July 9, 2004 and which is set forth in the Grounds of Rejection section of the Examiner's Answer. The argument regarding the JP '247 range was made to refute a statement by Appellant and does not contradict the overall position taken by the Examiner. From the record, it is clear that the basic thrust of the rejection remains the same in the Examiner's Answer such that Appellants have been given a fair opportunity to react to the rejection.

Accordingly, the petition is DENIED. The Application remains under Appeal and will be forwarded to the Board of Appeals for consideration thereof.

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

DOUGHERTY CLEMENTS
1901 ROXBOROUGH ROAD, SUITE 300
CHARLOTTE, NC 28211

UNITED STATES PATENT AND TRADEMARK OFFICE

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Washington, D.C. 20231
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Paper No. 5

Paul J. Csonka
105 E 39th Avenue
Eugene, OR 97405

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DEC 1 1 2002

OFFICE OF PETITIONS

In re Application of
Paul Csonka
Application No. 10/151,760
Filed: May 22, 2002
Title: ELECTRO-MECHANICAL ASSEMBLY FOR MEASUREMENTS OF SPINE CURVATURES

DECISION ON PETITION

This is in response to the communication filed November 15, 2002,[1] requesting that a declaration be considered timely filed.

The above-identified application was filed on May 22, 2002, with an unexecuted declaration. On June 20, 2002, the Office mailed a "Notice to File Missing Parts of Application," requiring applicant to submit an executed oath or declaration and pay the late surcharge under § 1.16. The Notice set a period for reply of two (2) months from the mail date of the Notice, with extensions of time obtainable under the provisions of 37 CFR 1.136(a).

Petitioner filed the instant petition maintaining that the response was timely mailed, but never received by the Office. *Pro se* applicant Csonka states that on August 9, 2002, he sent the necessary forms and payment via certified USPS Mail (trace number 7002 0860 0004 3295 0479), together with a return postcard. Having not received the return postcard from the USPTO, he investigated the matter and determined, in essence, that the correspondence was lost. In support of this petition, applicant Csonka submits a letter from a USPS employee on USPS letterhead, acknowledging that the item was mailed on August 9, 2002 but that they are unable to locate it. The accompanying USPS tracking documentation further shows that the correspondence in question was accepted for mailing on August 9, 2002 to zip code 20231, but delivered on August 14, 2002 to zip code 20599.

Petitioner's evidence has been considered and found persuasive that the declaration and surcharge were mailed on August 9, 2002, but due to USPS error not delivered.

Given the extraordinary circumstances, the petition is **GRANTED**.

Pro se applicant is advised, however, that any future correspondence to be considered timely filed, if not received (or received late) by the Office, will have to have a certificate of mailing under 37 CFR 1.8 or be mailed via United States Postal Service Express Mail Post Office to Addressee Service pursuant to 37 CFR 1.10.

---

[1] The date of completion of the complete facsimile transmission with initial transmissions on October 23 and 25, 2002.

The application file is being forwarded to the Office of Initial Patent Examination for processing of the responses to the Notice to File Missing Parts (declaration and surcharge) resubmitted on petition.

Telephone inquiries specific to this decision should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309.

for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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UNITED STATES DEPARTMENT OF COMMERCE
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MARTINE PENILLA & GENCARELLA, LLP
710 LAKEWAY DRIVE
SUITE 200
SUNNYVALE, CA 94085

Mail Date: 04/21/2010

Applicant	: Neil Mammen	: DECISION ON REQUEST FOR
Patent Number	: 7593334	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/151,775	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/20/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1638** 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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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

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OCT 26 2004

OFFICE OF THE DIRECTOR
TC 3600

Hughes Law Firm, PLLC
Pacific Meridian Plaza, Suite 302
4164 Meridian Street
Bellingham, WA 98226-5583

In re application of
Ralph Burrows et al.
Application No. 10/151,784
Filed: May 20, 2002
For: LOAD ASSIST MECHANISM FOR AN OVERHEAD BIN

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on May 20, 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 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

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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) & C) above.

As to condition A), the attorneys associated with Customer No. 26389 do not correspond with those named in the Power of Attorney in the declaration thereby creating confusion as to who is withdrawing. To alleviate this problem, it is suggested that the request be resubmitted and that such request specifically state that the signing attorney is signing on behalf of all attorneys of record in this application.

As to condition C), there now appears to be less than 30 days remaining in the extendable response period for the Office action mailed April 22, 2004.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/vdb: 10/14/04

cc:

Christensen, O'Connor, Johnson, Kindness, PLLC
1420 Fifth Avenue
Suite 2800
Seattle, WA 98101-2347

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MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND, WA 98052-6399

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OFFICE OF PETITIONS

In re Application of	:	
Noah Heller, et al.	:	
Application No. 10/151,793	:	DECISION ON PETITION
Filed: May 20, 2002	:	
Attorney Docket No. 193168.01	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 3, 2009, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 8, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 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 an amendment, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 3623 for appropriate action by the Examiner in the normal course of business on the reply received April 3, 2009.

April M. Wise
Petitions Examiner
Office of Petitions

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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

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JAN 25 2005

OFFICE OF PETITIONS

In re Application of :
Tetsuya Kaneko :
Application No. 10/151,805 : ON PETITION
Filed: May 22, 2002 :
Attorney Docket No. 223349US2S :

This is a decision on the petition, filed January 24, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 20, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2824 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).

PFAP

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OBLON, SPIVAK, MCCLELLAND, MAIER &
NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of :
Tetsuya Kaneko :
Application No. 10/151,805 : ON PETITION
Filed: May 22, 2002 :
Attorney Docket No. 223349US2S :

This is a decision on the petition, filed January 24, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 20, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2824 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

RECEIVED: 1-28-05
OBLON, SPIVAK, McCLELLAND
MAIER & NEUSTADT, P.C.
DOCKETING DEPT.
Initials/Date Docketed: CJG 1-28-05
Type of Resp(s): _____
Due Date(s): _____

[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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JUN 1 2004

Office of the Director
Group 3600

Jordan and Hamburg LLP
122 East 42nd Street
Suite 4000
New York, NY 10168

In re Application of
Masamichi Ipponmatsu et al.
Application No. 10/151,839
Filed: May 20, 2002
For: METHOD FOR MEASURING THE FLOW OF FLUIDS

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

The letter filed March 11, 2004 is being treated as a petition to withdrawal the holding of abandonment.

The petition is **GRANTED** in view of the following evidence of timely filing :

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____.

☐ Certificate of Mailing/Transmission signed on _____.
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 January 26, 2004 has been found and matched with the application.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response and then to the examiner for prompt action.

KJD/vdb: 5/25/04

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

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ROOM 27
REHOVOT 76209 ISRAEL

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OFFICE OF PETITIONS

In re Application of :
Menahem Kraus :
Application No. 10/152,004 : ON PETITION
Filed: May 22, 2002 :
Attorney Docket No. 1194KRA-US :

This is a decision on the petition filed on May 19, 2006, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed May 2, 2005. Applicant filed a response on September 2, 2005, made timely by obtaining a one month extension of time. However, the examiner determined that the amendment did not *prima facie* place the application in condition for allowance. Accordingly, an Advisory Action was mailed on November 18, 2005, informing applicant that the amendment would not be entered. No further reply having been received, the above-identified application became abandoned on September 3, 2005. A Notice of Abandonment was mailed on November 25, 2005.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and filed a proper reply in the form of a Request for Continued Examination (RCE).

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $510.00 extension of time fee submitted with the petition on May 19, 2006 was subsequent to the maximum period obtainable for reply (November 2, 2005), this fee will be refunded to petitioner under separate cover.

The application file is being forwarded to Group Art Unit 3767 for consideration of the RCE, filed May 19, 2005.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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SUGHRUE MION PLLC
2100 PENNSYLVANIA AVENUE, NW
WASHINGTON, DC 20037-3213

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OFFICE OF PETITIONS

In re Application of :
Hirokazu Asano et al :
Application No. 10/152,011 : DECISION GRANTING PETITION
Filed: May 22, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. Q-70094 :

This is a decision on the petition, filed May 9, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 19, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 1764 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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JOHN F TRAVIS
BLAKELY SOKOLOFF
TAYLOR & ZAFMAN LLP
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025

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FEB 28 2005

OFFICE OF PETITIONS

In re Patent of	:	
Pon et al.	:	
Application No. 10/152,014	:	DECISION
Filed: May 22, 2002	:	ON PETITION
Title of Invention:	:	
COMBINED MEMORY	:	

This is a decision on the Petition to Revive an Unintentionally Abandoned Application Under 37 CFR 1.137(b), filed January 26, 2005.

The petition is **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed March 30, 2004. The Office action set a three (3) month period for reply.

Applicant filed an Amendment on June 3, 2004; however, the Amendment failed to place the application in condition for allowance. Applicant was so notified in an Advisory Action mailed June 22, 2004.

Accordingly, the above-identified application became abandoned on July 1, 2004.

With the instant petition, Applicant has filed a Request for Continued Examination ("RCE"), and requests entry of the June 3, 2004 Amendment as his submission.

Having found that all of the requirements for a grantable petition under 37 CFR 1.137(b) have been met, **this petition is hereby granted.**

This application is an image file wrapper ("IFW") and, as such, no forwarding of the file is necessary. An electronic mail

message will be sent to Technology Center 2818 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/Advisor
Office of Petitions

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WASHINGTON, D.C. 20231
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Paper No. 5

Palmer C. Demeo
Palmer Patent Consultants
P.O. Box 1634
Woodbridge VA 22195

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SEP 0 6 2002

OFFICE OF PETITIONS

In re Application of
Sullivan, et al.
Application No. 10/152,020
Filed: May 22, 2002
Attorney Docket No. N/A
For: PHOTO-THERAPY DEVICE

DECISION DISMISSING PETITION

This is a decision on the petition filed July 29, 2002, requesting Figures 7 and 7A submitted on July 29, 2002 be considered as filed on May 22, 2002. The petition will be treated under 37 CFR 1.53(e).[1]

The petition is **dismissed**.

On May 22, 2002, the application was filed.

On June 13, 2002, the Office of Initial Patent Examination mailed a Notice stating that Figures 7 and 7A were missing.

The Office allows an applicant to rely upon an incorporation by reference of a parent application when a portion of the child application has been inadvertently omitted.

It is noted that the first page of the application identifies this application as a division of prior application No. 09/664,074 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)

Figures 7 and 7A submitted with the petition will not be entered at this time. **Petitioner should file a preliminary amendment requesting entry of missing Figures 7 and 7A.** The figures will, of course, be compared with the disclosure of application No. 09/664,074 for new matter. See MPEP 608.02(a). The amendment is not new matter if the substance was a part of the

[1] In the event the yet to be named examiner determines that the omitted figures are new matter, the petition under 37 CFR 1.182 will be considered. Consideration of whether or not the figures are new matter will not be undertaken until a preliminary amendment requesting entry of Figures 7 and 7A is filed. More detail is supplied in the body of this decision.

disclosure of the prior application.

The original application papers will include only those application papers present on the date of deposit.

Since the present petition was not necessitated by any error on the part of the Office, the $130.00 petition fee will not be refunded.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of May 22, 2002, using only the application papers filed on May 22, 2002.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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NOV 16 2004

Palmer C. Demeo
Palmer Patent Consultants
P.O. Box 1634
Woodbridge VA 22195

In re Application of	:	
Jana Sullivan	:	NOTICE OF WITHDRAWAL
Serial No.: 10/152,020	:	FROM ISSUE
Filed: May 22, 2002	:	UNDER 37 CFR 1.313(b)
For: Photo-Therapy Device	:	

The above-identified application is withdrawn from issue after payment of the issue fee due to unpatentability of one or more claims. See 37 CFR 1.313(b)(3).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquiries should be directed to John E. Kittle at (571)272-2975.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

John E. Kittle
Director
Technology Center 3700/2900

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In re Patent No. 6887190
Issue Date: May 3,2005
Application No. 10152052
Filed: May 21,2002
Attorney Docket No. 1017.0200

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed July 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 July 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.

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)
6,887,190	2005-05-03	10/152,052	2002-05-21	1017.0200

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	/H. JOHN RIZVI/	Date (YYYY-MM-DD)	2009-07-02
Name	H. John Rizvi	Registration Number	41271

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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MILWAUKEE, WI 53202

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OFFICE OF PETITIONS

In re Patent No. 6,823,134	:	
Issue Date: November 23, 2004	:	
Application No. 10/152,059	:	DECISION GRANTING PETITION
Filed: May 21, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 66042-9298-00	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 22, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application issued into a patent on November 23, 2004, although the issue and publication fees were not timely submitted, as correctly noted in the petition to revive. In this regard, the issue and publication fees were due on or before August 13, 2004. The Part B - Fee(s) Transmittal form, submitting the $1,330 issue fee and the $300 publication fee, was not received in the U.S. Patent and Trademark Office until August 16, 2004 and did not include a signed and dated certificate of mailing. Accordingly, the issue and publication fees were not timely paid.

The petition satisfies the conditions for acceptance of the late payment of the issue and publication fees. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

As this application matured into a patent on November 23, 2004, no further action herein is required.

Frances Hicks
Petitions Examiner
Office of Petitions

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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 :
Yoav SHEFI :
Application No. 10/152,066 : DECISION ON PETITION
Filed: May 22, 2002 :
Attorney Docket No. SHEFI=1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 15, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 11, 2009, which set a shortened statutory period for reply of three (3) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 12, 2009.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment (2) the petition fee of $810.00 and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of March 11, 2009 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

The application is being referred to the Technology Center AU 2628 for appropriate action on the concurrently filed amendment.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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Paper No. 11

FISH & RICHARDSON PC
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BOSTON MA 02110

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OFFICE OF PETITIONS

In re Application of
Kepuska et al.
Application No.10/152,095
Filed: May 21, 2002
Attorney Docket Number: 13323-009001
Title of Invention: Dynamic Time Warping of Speech

DECISION ON PETITIONS
UNDER 37 CFR 1.48 AND 1.183

This is in response to the petitions filed under 37 CFR §1.48 filed on March 19, 2004 which is being treated as a petition under 37 CFR 1.183.

The petition filed under 37 CFR 1.48 is **DISMISSED**.
The petition filed under 37 CFR 1.183 is **DISMISSED**.

The above-identified application was filed on May 21, 2002, without an executed oath or declaration. Accordingly, on June 21, 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 March 10, 2002. A declaration was submitted on December 26, 2002. However the Office Action mailed March 19, 2004 required applicant to submit a new declaration .

Petition Under 37 CFR 1.48

A grantable 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(l); and (5)

if an assignment has been executed by any of the original named inventors, the written consent of the assignee.

As to item (3), petitioner has failed to submit an executed oath or declaration. Accordingly the 37 CFR 1.48 petition can not be granted without an executed oath or declaration or a grantable petition under 37 CFR 1.183.

Petition Under 37 CFR 1.183

The "petition with respect to inventor who refuses to sign" filed on March 19, 2004 is being treated under 37 CFR 1.183. When an inventor who executed the original declaration is refusing or cannot be found to execute a required supplemental declaration, the requirement for that inventor to sign the supplemental declaration may be suspended or waived in accordance with 37 CFR 1.183. All available joint inventor(s) must sign the supplemental declaration on behalf of themselves, if appropriate, and on behalf of the nonsigning inventor. See MPEP § 409.03(a).

Suspension of the rules under 37 CFR 1.183 may be granted in an "extraordinary situation, when justice requires." 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.

The petition under 37 CFR 1.183 is **Dismissed.**

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," 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).

Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to also sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603. This application bears an original Declaration executed by inventor Kepuska thus, the provisions of 37 CFR 1.47 do not apply in this instance. Nevertheless, it is appropriate to apply the principles thereof to the situation at hand.

Petitioner has submitted a supplemental declaration, however a review of the declaration provided shows the citizenship of inventor Veton Z. Kepuska has not been provided. An executed declaration which contains the citizenship of inventor Kepuska

must be provided.

Petitioner has also failed to provide proof that the non-signing inventor refuses to sign the oath or declaration after having been presented with a copy of the oath or declaration. Petitioner should provide evidence to prove the declaration was presented for inventor Kepuska's review and the manner the refusal was conveyed. If the refusal was given orally, a statement from a person who has first hand knowledge should be provided.

Pursuant to petitioner's request deposit account 06-1050 is being charged the $130.00 petition fee pursuant to 37 CFR1.17(h).

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 related to this decision may be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

Douglas I. Wood
Senior Petition Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov
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225 FRANKLIN ST
BOSTON MA 02110

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MAY 0 6 2005

OFFICE OF PETITIONS

In re Application of :
Kepuska :
Application No. 10/152,095 : ON PETITION
Filed: 21 May, 2002 :
Atty Docket No. 13323-009001 :

This is a decision on the request for reconsideration filed on 3 December, 2004, which is being treated as (a) a petition under 37 CFR 1.48(a)(1) requesting that a person be added as inventor and (b) a petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.63 and 1.67, which require that a named inventor execute a supplemental declaration.

The petition is again **DISMISSED**.

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 " 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).

On 21 May, 2002, the above-identified application was filed. On 26 December, 2002, a declaration was filed in accordance with 37 CFR 1.63 listing Veton Z. Kepuska as the sole inventor.

On 19 March, 2004, a petition was filed, whereby petitioners sought to add Harinath K. Reddy as a joint inventor. The petition was dismissed on 7 July, 2004.

The present request for reconsideration was filed on 3 December, 2004. Petitioner again asserts that joint inventor Kepuska has refused to sign the declaration naming the actual inventors as required by 37 CFR 1.48(a)(3).

Petition Under 37 CFR 1.48(a) and 1.183

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.

Suspension of the rules under 37 CFR 1.183 may be granted in an "extraordinary situation, when justice requires". 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.

With regard to item (3) above, upon further review, it is noted that the supplemental declaration listing both Kepuska and Reddy as inventors and signed by Reddy states Kepuska's full name as "Veton Z. Kepuska" while the original declaration filed on 26 December, 2002, and signed by Kepuska lists Kepuska's full name as "Veton K. Kepuska". It therefore appears that Kepuska's middle initial is misidentified in the supplemental declaration. The declaration therefore does not comply with 37 CFR 1.63 and 1.67.

A new declaration correctly listing both inventors' names and signed by all of the signing inventors must be filed with a renewed petition.

Additionally, it is noted that the declaration of Paul J. Gagne states that Kepuska's name as "Veton K. Kepuska" and states that a copy of the declaration was emailed to Mr. Kepuska, who refused to sign and return it. Petitioner must clarify on the record whether the declaration sent by e-mail to Mr. Kepuska properly identified his middle initial. As it is unclear whether Kepuska was presented with a declaration properly reciting his name, it

cannot be ruled out that Kepuska refused to sign the declaration due to inventorship *per se*.

Petitioner must therefore show that an application properly naming the inventive entity (specification, including claims, drawings if any, and a declaration correctly stating the inventorship) was sent to inventor Kepuska along with a request that he sign and return the declaration.

If Kepuska was not sent a declaration properly reciting his name, a new supplemental declaration should be sent to him along with a request that he sign it. Petitioner should provide proof that the non-signing inventor refuses to sign the oath or declaration after having been presented with a copy thereof. If the refusal is made in writing, petitioner should provide a copy of that written refusal. If the refusal was made orally, a statement from a person who has first hand knowledge of the refusal should be provided.

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
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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OFFICE OF PETITIONS

In re Application of :
Kepuska et al. :
Application No. 10/152,095 : ON PETITION
Filed: 21 May, 2002 :
Atty Docket No. 13323-009001 :

This is a decision on the request for reconsideration filed on 2 November, 2005, which is being treated as (a) a petition under 37 CFR 1.48(a)(1) requesting that a person be added as inventor and (b) a petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.63 and 1.67, which require that a named inventor execute a supplemental declaration.

The petition is **GRANTED**.

On 21 May, 2002, the above-identified application was filed. On 26 December, 2002, a declaration was filed in accordance with 37 CFR 1.63 listing Veton K. Kepuska[1] as the sole inventor.

On 19 March, 2004, a petition was filed, whereby petitioners sought to add Harinath K. Reddy as a joint inventor. The petition was dismissed on 7 July, 2004.

A request for reconsideration was filed on 3 December, 2004. Petitioner again asserts that joint inventor Kepuska has refused to sign the declaration naming the actual inventors as required by 37 CFR 1.48(a)(3). The petition was dismissed on 6 May, 2005, because it appeared that inventor Veton Z. Kepuska's name had been misspelled on the supplemental declaration.

The present renewed petition was filed on 2 November, 2005 (certificate of mailing date 31 October, 2005), accompanied by a four (4) month extension of time. Petitioner asserts that

[1] Petitioner explains, in the present petition, that Kepuska's middle initial is actually "Z.", but was incorrectly listed as "K." due to a typographical error, on the original declaration.

inventor Kepuska's middle initial is in fact "Z." but was inadvertently listed as "K." on the original declaration due to typographical error. Petitioner's counsel asserts that Kepuska has refused to sign the declaration listing him and Reddy as joint inventors because he believes Reddy is not an inventor, not because of a typographical error in Kepuska's name. In support, petitioner has provided a copy of an E-mail from inventor Kepuska, in response to a request that Kepuska sign the declaration naming himself and Reddy as joint inventors in which Kepuska states that "[o]bviously you and (assignee) TEN have agreed to proceed with the plan to include Harinath (Reddy) as an inventor in spite of the fact that it will constitute a flagrant violation of the patent law. Thus I can not be part of it."

Petition Under 37 CFR 1.48(a) and 1.183

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.

As a result of papers filed on 2 November, 2005, 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).

In view of the efforts recounted in the petition to obtain the signature of Veton Z. Kepuska, it is agreed that justice would be served by waiving the requirement for his signature on the statement of lack of deceptive intent required by 37 CFR 1.48(a).

The inventorship of this application has been changed by the addition of: Harinath K. Reddy, Boylston, MA.

Should petitioner desire to correct the spelling of inventor Kepuska's name, a petition under 37 CFR 1.182, accompanied by the petition fee required under 37 CFR 1.17(f), must be filed.

Office PALM records have been corrected to reflect the correct inventorship of the application. A corrected Filing Receipt is enclosed for petitioner's records.

The application is being forwarded to Technology Center Art Unit 2654 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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PARSONS BEHLE & LATIMER
201 SOUTH MAIN STREET, SUITE 1800
SALT LAKE CITY, UT 84111-2218

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JUL 15 2005

OFFICE OF PETITIONS

In re Application of :
Mark M. Boucek :
Application No. 10/152,097 : ON PETITION
Filed: May 21, 2002 :
Attorney Docket No. 01002.001 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 7, 2005, to revive the above-identified application.

The petition is **GRANTED.**

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; (3) the required statement of unintentional delay have been received. Accordingly, the petition filed March 7, 2005 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter is being referred to Technology Center 3700, Art Unit 3731 for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/152,106

Paper No.: _____

DATE : 1-24-06

TO SPE OF : ART UNIT 1623

SUBJECT : Request for Certificate of Correction on Patent No.: 6977243

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-922
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please check claims

Thank You For Your Assistance

E Yoon
Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments:

SPE

1623
Art Unit

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JAN 1 8 2006

Office of Patent Publication
Director's Office

PATENT
Attorney Docket No. PC11714A US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Patent of:	)	
	)	
Zheng J. Li *et al.*	)	
	)	
U.S. Patent No.: 6,977,243, issued December 20, 2005	)	Group Art Unit: 1623
	)	
Application No.: 10/152,106	)	
	)	
Filed: May 21, 2002	)	Examiner: Elli Peselev
	)	
Title: CRYSTAL FORMS OF AZITHROMYCIN	)	

Certificate of Correction Branch
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR EXPEDITED ISSUANCE OF A CERTIFICATE OF CORRECTION UNDER 37 C.F.R. §1.322 AND M.P.E.P. §1480.01

Dear Sir:

Patentee respectfully requests an expedited issuance of a Certificate of Correction under M.P.E.P §1480.01 to correct errors attributable to the United States Patent and Trademark Office, which are identified on Certificate of Correction form PTO/SB/44 enclosed herewith.

Patentee further requests that the Patent Office disregard the Certificate of Correction filed on January 6, 2006 which did not correct all of the errors in the patent.

No fee should be required for this request since the errors are due to the USPTO. Notably, the August 31, 2005 Index of Claims indicates that allowed claim 125 should be claim 1 in the issued patent and this claim was actually omitted in the issued patent. Moreover, the Index of Claims also indicates that allowed claims 36 – 53 should be claims 2-19 in the issued patent, not claims 1-18 as actually printed. Claims 20 – 24 in the issued patent (which

correspond to allowed claims 126-130) were numbered correctly. For your convenience, a copy of the August 31, 2005 Index of Claims, a copy of the issued claims as well as the Notice of Allowability and the pending claims before the issuance of the Notice of Allowance (i.e., from the Amendment filed on June 6, 2005) are enclosed.

The incorrect numbering of many of the claims in the patent has led to errors in the dependencies of many of the claims. These errors have also been corrected in the attached Certificate of Correction.

Patentee has also noticed that in the Examiner's amendment that was a part of the Notice of Allowability dated August 31, 2005, the Examiner's amendment to claim 125, line 3, appears to have added a second "with" to line 3 so that the language reads "with with at least one peak...". This is clearly an inadvertent error on the Examiner's part. Accordingly, Patentee has also corrected this obvious error in the attached Certificate of Correction.

Furthermore, the allowed claim 126 spells the words "crystalline" and "state" correctly although these words were misspelled in claim 20 of the issued patent as "crystalling" and "stat," respectively. Finally, in allowed claim 128, reference was made correctly to "^{13}C" solid state NMR although claim 22 of the patent refers incorrectly to "^{12}C" solid state NMR.

In view of the large number of errors in the claims of the patent, Patentee believes that that the easiest way to correct all of the errors is to submit a substitute set of claims for the patent. This substitute set of claims appears in the attached Certificate of Correction (form PTO/SB/44).

It is respectfully submitted that all of the errors that have been corrected in the substitute set of claims in the attached Certificate of Correction were made by the United States Patent and

Trademark Office. Accordingly, Patentee respectfully requests that a Certificate of Correction be issued on an expedited basis under M.P.E.P. § 1480.01.

No fee is believed to be necessary in connection with the filing of this Certificate of Correction. If, however, the Commissioner determines that any fee is due, the Commissioner is hereby authorized to charge any such fees, which may be required, or credit any overpayment, to Deposit Account No. 16-1445.

Respectfully submitted,

Date: Jan. 18, 2006

lance liu

Lance Y. Liu
Attorney for Patentee
Reg. No. 45,379

Customer No. 28523
Pfizer Inc.
Patent Department, MS 8260-1611
Eastern Point Road
Groton, Connecticut 06340
(860) 686-1652

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:	6,977,243
APPLICATION NO.	:	10/152,106
ISSUE DATE	:	December 20, 2005
INVENTOR(S)	:	Zheng J. Li and Andrew V. Trask

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:

Please replace claims 1 – 24 of the patent with the following set of corrected claims:

1. A crystalline form of azithromycin which is azithromycin sesquihydrate being characterized as having a ^{13}C solid state NMR spectrum comprising a plurality of peaks with at least one peak having a chemical shift of about 179.5 ppm.

2. A crystalline form of azithromycin according to claim 1 wherein said azithromycin comprises more than 50% by weight of azithromycin.sesquihydrate.

3. A crystalline form of azithromycin according to claim 2, wherein said azithromycin comprises 55% or more by weight of azithromycin sesquihydrate.

4. A crystalline form of azithromycin according to claim 2, wherein said azithromycin comprises 60% or more by weight of azithromycin sesquihydrate.

5. A crystalline form of azithromycin according to claim 2, wherein said azithromycin comprises 65% or more by weight of azithromycin sesquihydrate.

6. A crystalline form of azithromycin according to claim 2, wherein said azithromycin comprises 70% or more by weight of azithromycin sesquihydrate.

7. A crystalline form of azithromycin according to claim 2, wherein said azithromycin comprises 75% or more by weight of azithromycin sesquihydrate.

8. A crystalline form of azithromycin according to claim 2, wherein said azithromycin comprises 80% or more by weight of azithromycin sesquihydrate.

9. A crystalline form of azithromycin according to claim 2, wherein said azithromycin comprises 85% or more by weight of azithromycin sesquihydrate.

10. A crystalline form of azithromycin according to claim 2, wherein said azithromycin comprises 90% or more by weight of azithromycin sesquihydrate.

11. A crystalline form of azithromycin according to claim 2, wherein said azithromycin comprises 91% or more by weight of azithromycin sesquihydrate.

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Lance Y. Liu,
Pfizer, Inc., Patent Department, MS 8260-1611
Eastern Point Road, Groton, Connecticut 06340

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.

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,977,243

APPLICATION NO. : 10/152,106

ISSUE DATE : December 20, 2005

INVENTOR(S) : Zheng J. Li and Andrew V. Trask

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:

(corrected set of claims continued from page 1)

12. A crystalline form of azithromycin according to claim 2, wherein said azithromycin comprises 92% or more by weight of azithromycin sesquihydrate.

13. A crystalline form of azithromycin according to claim 2, wherein said azithromycin comprises 93% or more by weight of azithromycin sesquihydrate.

14. A crystalline form of azithromycin according to claim 2, wherein said azithromycin comprises 94% or more by weight of azithromycin sesquihydrate.

15. A crystalline form of azithromycin according to claim 2, wherein said azithromycin comprises 95% or more by weight of azithromycin sesquihydrate.

16. A crystalline form of azithromycin according to claim 2, wherein said azithromycin comprises 96% or more by weight of azithromycin sesquihydrate.

17. A crystalline form of azithromycin according to claim 2, wherein said azithromycin comprises 97% or more by weight of azithromycin sesquihydrate.

18. A crystalline form of azithromycin according to claim 2, wherein said azithromycin comprises 98% or more by weight of azithromycin sesquihydrate.

19. A crystalline form of azithromycin according to claim 2, wherein said azithromycin comprises 99% or more by weight of azithromycin sesquihydrate.

20. The crystalline form of azithromycin according to claim 1 wherein said ^{13}C solid state NMR spectrum further comprising a peak with chemical shift of about 10.4 ppm.

21. The crystalline form of azithromycin according to claim 20 wherein said ^{13}C solid state NMR spectrum further comprising a peak with chemical shift of about 9.9 ppm.

22. The crystalline form of azithromycin according to claim 21 wherein said ^{13}C solid state NMR spectrum further comprising a peak with chemical shift of about 9.3 ppm.

23. The crystalline form of azithromycin according to claim 22 wherein said ^{13}C solid state NMR spectrum further comprising a peak with chemical shift of about 7.6 ppm.

24. The crystalline form of azithromycin according to claim 23 wherein said ^{13}C solid state NMR spectrum further comprising a peak with chemical shift of about 6.5 ppm.

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Lance Y. Liu,
Pfizer, Inc., Patent Department, MS 8260-1611
Eastern Point Road, Groton, Connecticut 06340

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.

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Paper No. 4

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APR 12 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

BIRCH STEWART KOLASCH & BIRCH
P.O. BOX 747
FALLS CHURCH, VA 22040-0747

In re Application of
Sharma, et al.

Application No. 10/152,139
Filed: May 20, 2002
For: SYSTEM AND METHOD FOR MANAGING SUBRATE SERVICES IN AN OPTICAL NETWORK

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request for Withdrawal as attorney or agent and change of address filed on March 22, 2004.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All attorneys/agents of record are withdrawn.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

CC: Michael Cammarate
Birch, Stewart, Kolasch & Birch
8110 Gatehouse Road, Suite 100 East
Falls Church, VA 22042

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
HOWARD HUGHES CENTER
6060 CENTER DRIVE, TENTH FLOOR
LOS ANGELES, CA 90045

Mail Date: 05/13/2010

Applicant	: Kent C.B. Stalker	: DECISION ON REQUEST FOR
Patent Number	: 7632303	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/152,150	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/21/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1844** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 7

FLEHR HOHBACH TEST
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Suite 3400
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San Francisco, CA 94111-4187

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MAR 12 2003

OFFICE OF PETITIONS

In re Application of :
Lu, et al. :
Application No. 10/152,163 : DECISION GRANTING STATUS
Filed: May 20, 2002 : UNDER 37 CFR 1.47(a)
Atty. Dkt. No.: A-71309/RMS/DCF :
For: COMPOSITIONS AND METHODS FOR SCREENING AND IDENTIFYING ANTI-HCV AGENTS :

This decision is in response to the petition under 37 CFR 1.47(a), filed February 19, 2003.

The petition is **GRANTED**.

Petitioner has shown that inventor Todd Kinsella either cannot be reached, or having been reached, refuses to execute 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 petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

OIPE
JUL 17 2003
3102
PATENT & TRADEMARK OFFICE

#3 DAC

PTO/SB/64 (05-03)
Approved for use through 04/30/2003. 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)
BEL1020C2

First named inventor: Belson, Amir

Application No.: 10/152,164

Art Unit: 3736

Filed: 05/20/2002

Examiner:

Title: Intrauterine Imaging System

Attention: Office of Petitions
MailStop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX: (703) 308-6916

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NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee -- required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

[X] Small entity-fee $ 650.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

[ ] Other than small entity - fee $_____ (37 CFR 1.17(m)).

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of signed declaration and payment of filing fees (identify type of reply):
[ ] has been filed previously on _____.
[X] is enclosed herewith.

B. The issue fee of $ _____.
[ ] has been paid previously on _____.
[ ] is enclosed herewith.

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 needs of 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. 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.

07/18/2003 AWONDAF1 00000060 10152164

01 FC:2453 650.00 OP

3. Terminal disclaimer with disclaimer fee

[X] 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: 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.

July 13, 2003
Date

Carol D. Titus
Signature

Telephone Number: 510-742-7417

Carol D. Titus, Reg. No. 38,436
Typed or printed name

3900 Newpark Mall Rd., Suite 317
Address

Newark, CA 94560

Enclosures:
[X] Fee Payment
[X] 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:

[X] deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

[ ] transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-6916.

July 13, 2003
Date

Carol D. Titus
Signature

Carol D. Titus
Typed or printed name of person signing certificate

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 5

LEARY & ASSOCIATES
3900 NEWPARK MALL RD.
THIRD FLOOR, SUITE 317
NEWARK, CA 94560

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AUG 0 6 2003

OFFICE OF PETITIONS

In re Application of :
Amir Belson et al :
Application No. 10/152,164 : ON PETITION
Filed: May 20, 2002 :
Attorney Docket No. BEL1020C2 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed July 17, 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)." No additional fee is required with any renewed petition. Petitioner is advised that this is **not** a final agency action decision.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed 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 August 19, 2002.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (1) above.

The Notice to File Missing Parts of Nonprovisional Application mailed June 18, 2002, additionally required the submission of drawings in compliance with 37 CFR 1.84. Since petitioner has failed to submit the reply required by 37 CFR 1.137(b)(1), the petition must be dismissed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Crystal Plaza Four, Suite 3C23
2201 South Clark Place
Arlington, VA 22202

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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PATENT & TRADEMARK OFFICE

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED
DEC 16 2003
OFFICE OF PETITIONS

Appn. No.:	10/152,164
Applicant:	Amir Belson
Filing Date:	May 20, 2002
Title:	Intrauterine Imaging System
TC/A.U.:	
Examiner:	
Docket No.:	BEL1020C2

Mailed: December 8, 2003
at Newark, CA

RENEWED PETITION UNDER 37 CFR 1.37(b)

MailStop PETITION
Commissioner for Patents
PO Box 1450
Arlington, VA 22313-1450

Dear Sir:

This is in response to the Decision on Petition mailed from the Patent Office on August 6, 2003. Applicant's Petition was Dismissed for failing to include a submission of drawings in compliance with 37 CFR 1.84.

Please find enclosed herewith:
-Replacement drawings (8 sheets)
-Petition for Extension of Time (2 months)
-Credit Card Payment form for $210.00

Applicant respectfully requests that this application be revived and forwarded to the Technical Art Unit for examination.

Very respectfully submitted,

Carol D. Titus
Gregory Smith & Associates
3900 Newpark Mall Rd
Third Floor, Suite 317
Newark, CA 94560

Reg. No. 38436
Phone (510) 742-7417
Fax (510) 742-7419

CERTIFICATE OF MAILING

I hereby certify that this paper and the documents referred to as attached hereto, addressed to the Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450, will be deposited with the U.S. Postal Service as first class mail with sufficient postage at Newark on December 8, 2003.

Signature
Carol D. Titus

Date: December 8, 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. 9

LEARY & ASSOCIATES
3900 NEWPARK MALL RD.
THIRD FLOOR, SUITE 317
NEWARK, CA 94560

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DEC 2 9 2003

OFFICE OF PETITIONS

In re Application of :
Amir Belson et al :
Application No. 10/152,164 : ON PETITION
Filed: May 20, 2002 :
Attorney Docket No. BEL1020C2 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed December 12, 2003, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The application file is being forwarded to the Office of Initial Patent Examination.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

THOMAS D. BOYER
1445 CREEKSIDE DRIVE
RANDLEMAN, NC 27317

In re Application of :
Boyer, et al. :
Application No. 10/152,167 : LETTER
Filed: May 21, 2002 :
Atty. Dkt. No.: T00428.70139.US :
For: ENCAPSULATION USING :
MICROCELLULAR FOAMED MATERIALS :

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MAR 12 2003

OFFICE OF PETITIONS

Dear Sir:

You are named as an inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0310. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

Timothy J. Oyer
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, MA 02210

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MAR 1 2 2003

OFFICE OF PETITIONS

In re Application of :
Boyer, et al. :
Application No. 10/152,167 : DECISION GRANTING STATUS
Filed: May 21, 2002 : UNDER 37 CFR 1.47(a)
Atty. Dkt. No.: T00428.70139.US :
For: ENCAPSULATION USING :
MICROCELLULAR FOAMED MATERIALS :

This decision is in response to the petition under 37 CFR 1.47(a), filed December 31, 2002.

The petition is **GRANTED**.

Petitioner has shown that inventor Thomas D. Boyer has refused to join in the filing of the above-identified application after having been presented with the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

In re Application of :
Goren GORDON :
Application No. 10/152,169 : DECISION ON PETITION
Filed: May 20, 2002 :
Attorney Docket No. **273/231** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 21, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, November 02, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 03, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $770, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non final Office Action of November 02, 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 3693 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy
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. 9

Akin Gump Strauss Hauer & Feld
One Commerce Square
2005 Market Street, Suite 2200
Philadelphia, PA 19103-7086

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OFFICE OF PETITIONS

In re Application of
Gerdes et al.
Application No. 10/152,212
Filed: May 20, 2002
Attorney Docket No. 8182-23 (PA33667US-019/wl)

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 13, 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 26, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 27, 2002.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision may be directed to the undersigned at (703) 308-6911.

Latrice Bond

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. None

Kevin L. Russell
Suite 1600
601 SW Second Ave.
Portland OR 97204-3157

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MAY 1 0 2004

OFFICE OF PETITIONS

In re Application of
K. Reed Gleason et al.
Application No. 10/152,228
Filed: May 20, 2002
Attorney Docket No. KLR: 1016.093
Title: MEMBRANE PROBING SYSTEM
WITH LOCAL CONTACT SCRUB

DECISION GRANTING
PETITION UNDER 37 C.F.R. §1.137(b)

This is a decision on the petition filed on March 5, 2004, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R §1.113 in a timely manner to the final Office action mailed July 30, 2003, which set a shortened statutory period for reply of three (3) months. On August 28, 2003, an amendment was received, along with a three-month extension of time. On October 2, 2003, an advisory action was mailed, indicating that the amendment failed the place the application in condition for allowance. No further extensions of time were received. Accordingly, the above-identified application became abandoned on January 31, 2003.

With the instant petition, petitioner has filed the petition fee, a Request for Continued Examination (RCE) under 37 C.F.R. §1.114, as well as the associated fee, and has made the proper statement of unintentional delay. The RCE has been accepted as the required reply under 37 C.F.R. §1.137(b)(1). The amendment, previously filed on August 28, 2003, shall serve as the required submission.

---

1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

As such, the petition is **GRANTED**.

After this decision is mailed, the application will be forwarded to Technology Center 2800 for consideration of the submission under 37 C.F.R. §1.114, the previously filed amendment. This is merely a formality however, as the Office has already considered the submission, via the improper issuance of a non-final action on April 14, 2004.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0011.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OCT 26 2004

Paper No. 101904

LAW OFFICE OF RICHARD A. DUNNING, JR.
343 Soquel Avenue
Suite 311
Santa Cruz, CA 95062

In re Application of:	:	
Flasck et al.	:	DECISION ON REQUEST TO WITHDRAW
Serial No.: 10/152,245	:	FROM RECORD
Filed: May 21, 2002	:	
Attorney Docket No.: **VOL003001**	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed April 09, 2004.

The request is **DISMISSED** as moot.

A review of the application file record reveals a proper revocation and power of attorney to the attorneys of Fish & Richardson, P.C. was filed on October 15, 2004. As such, the power of attorney for the attorneys and agents requesting withdrawal has already been revoked. Accordingly, the present request is moot, and must be dismissed.

All future communications form the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Inquiries related to this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Fish & Richardson, P.C.
500 Arguello Street
Suite 500
Redwood City, CA 94063