I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Attn: Application Processing Division — Special Processing and Correspondence Branch Washington, D.C. 20231 on 5-16-94

By M. Diane Duke

COPY

14643-31-2-2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

HERMAN A. DEBOER ET AL.

Serial No.: 08/154,019

Filed: November 16, 1993

For: PRODUCTION OF RECOMBINANT POLYPEPTIDES BY BOVINE SPECIES AND TRANSGENIC METHODS

Examiner: Unassigned

Art Unit: Unassigned

JC996 U.S. PTO 10/170221 06/11/02

PETITION UNDER 37 CFR §1.47(a)

Commissioner of Patents and Trademarks
Washington, D.C. 20231

Sir:

Co-inventors Herman A. DeBoer, Rein Strijker, Herbert L. Heyneker, Gerard Platenburg, Sang He Lee, and Frank Pieper hereby make application for patent on behalf of an additional co-inventor Paul J.A. Krimpenfort for the subject matter encompassed by the above-referenced application. Attached to this request are:

1. A Declaration and Power of Attorney executed by Herman A. DeBoer, Rein Strijker, Herbert L. Heyneker, Gerard Platenburg, Sang He Lee and Frank Pieper, in counterpart, each on his own behalf;
2. A Declaration and Power of Attorney under 37 CFR §1.64(b) executed by Herman A. DeBoer, Rein Strijker, Herbert L. Heyneker, Gerard Platenburg, Sang He Lee and Frank Pieper, in counterpart, each on behalf of co-inventor Paul J.A. Krimpenfort;
3. Proof of Refusal of Inventor to Sign - MPEP §409.03(d) and 37 CFR §1.47(a) executed by Rein Strijker, an employee of the assignee of the above-captioned application, Gene Pharming Europe

BV, setting forth pertinent facts regarding co-inventor Paul J.A. Krimpenfort's refusal to execute a Declaration and Power of Attorney.

It is respectfully submitted that the attached documents provided proper basis for filing this application under 37 CFR §1.47(a), and Applicants request early notification to that effect.

Please charge the petition fee of $130.00 to deposit account 20-1430. Please charge any additional fees or credit any overpayment to the same account.

If the Examiner believes a telephone conference would expedite prosecution of this application, he is invited to telephone the undersigned at (415) 326-2400, Ext. 218.

This Petition is submitted in triplicate.

Respectfully submitted,

J. Liebeschuetz

Joe Liebeschuetz
Reg. No. 37,505

TOWNSEND and TOWNSEND KHOURIE and CREW
20th Floor, Steuart Street Tower
One Market Plaza
San Francisco, California 94105-1492
(415) 326-2400
14643\31\2-2.PET

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

#4

Jc996 U.S. PTO
10/170221
06/11/02

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AUG 16 1994
SPECIAL PROGRAMS OFFICE
OF PATENTS

William M. Smith
Townsend and Townsend Khourie and Crew
Steuart Street Tower
One Market Plaza, 20th Floor
San Francisco, CA 94105

In re Application of Deboer, Strijker, Heyneker, Platenburg, Lee, Pieper and Krimpenfort Serial No. 08/ 154, 019 Filed: November 16, 1993 For: PRODUCTION OF RECOMBINANT POLYPEPTIDES BY BOVINE SPECIES AND TRANSGENIC METHODS	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

Papers filed May 20, 1994, in response to the "Notice to File Missing Parts" included the following:

(1) a "Transmittal of Missing Parts" authorizing charge of the surcharge to Deposit Account No. 20-1430;

(2) a "Petition to Extend Time" and authorization to charge the extension fee ($660.00);

(3) a "Petition Under 37 CFR 1.47(a)" and authorization to charge the petition fee ($130.00);

(4) a declaration of Rein Strijker and accompanying exhibits showing that the non-signing inventor was given a complete copy of the application and refused to sign; and

(5) a "Declaration and Power of Attorney" in compliance with 37 CFR 1.63 signed by each of the signing inventors on behalf of themselves and on behalf of the non-signing inventor.

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

(1) accept this application under Rule 1.47(a); and

(2) mail a filing receipt with a filing date of November 16, 1993.

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 Declaration. Should such notice be returned undelivered, it should be returned to the Office of the Deputy Assistant Commissioner for Patent Policy and Projects and notice of the filing of this application will be published in the Official Gazette when said application is ready for issue and is returned to this Office for review of its Rule 1.47(a) status.

This application is not relieved of its Rule 1.47(a) status and must be returned to the Office of the Deputy Assistant Commissioner for Patent Policy and Projects after mailing any "Notice of Allowability" or "Notice of Allowance and Issue Fee Due" for review of its Rule 1.47(a) status.

Magdalen Y.C. Greenlief
Special Program Examiner
Office of the Deputy Assistant Commissioner for Patent Policy and Projects

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER OF
PATENTS AND TRADEMARKS
Washington, D.C. 20231

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SPECIAL PHUGHAMS OFFICE
OF PATENTS

jc996 U.S. PTO
10/170221
06/11/02

Paul Krimpenfort
Crayenestersingel 5, 2101 AN
Heemstede, The Netherlands

In re Application of
Deboer, Strijker, Heyneker, Platenburg, Lee, Pieper and Krimpenfort
Serial No. 08/ 154, 019
Filed: November 16, 1993
For: PRODUCTION OF RECOMBINANT POLYPEPTIDES BY BOVINE SPECIES AND TRANSGENIC METHODS

Dear Paul Krimpenfort:

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.

Magdalen Y.C. Greenlief
Special Program Examiner
Office of the Deputy Assistant Commissioner for Patent Policy and Projects

counsel of record:
William M. Smith
Townsend and Townsend Khourie and Crew
Steuart Street Tower, One Market Plaza, 20th Floor
San Francisco, CA 94105

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : August 23, 2006

TO SPE OF : ART UNIT 1636

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/170240 Patent No.: 7,033,750

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: The proposed change to the priority claim on the Title page will not be entered as the change in priority could influence how the claims are considered with regard to potential prior art. Also, the proposed amendment deletes the current status of the 08/145826 application (issued as US Patent 6,410,010). Patentees present no rationale for making this change.

[signature] — **SPE**

1636 — **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

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OFFICE OF PETITIONS

MICHAEL BEST & FRIEDRICH LLP
100 EAST WISCONSIN AVENUE, SUITE 3300
MILWAUKEE, WI 53202-4108

In re Application of :
Kenneth J. Ruchala et al :
Application No. 10/170,252 :
Filed: June 11, 2002 :
Attorney Docket No. 013869-9003 :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed July 28, 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: (571) 273-8300
ATTN: 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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MICHAEL BEST & FRIEDRICH LLP
100 EAST WISCONSIN AVENUE
SUITE 3300
MILWAUKEE, WI 53202-4108

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OCT 1 2 2005

OFFICE OF PETITIONS

In re Application of
Kenneth J. Ruchala et al
Application No. 10/170,252
Filed: June 11, 2002
Attorney Docket No. 013869-9003

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the renewed petition, filed September 16, 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 June 10, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen months publication country.

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

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

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

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

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

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Joseph S. Heino, Esq.
Davis & Kuelthau, S.C.
111 E. Kilbourn, Suite 1400
Milwaukee, WI 53202-6613

Paper No. 5

In re Application of: Denis A. Wenger Serial No. 10/170,275 Filed: June 12, 2002 For: METHOD AND SYSTEM FOR AUDITING ACADEMIC CREDIT FOR EMPLOYMENT AND TRAINING	**DECISION ON PETITION TO MAKE SPECIAL (DEPARTMENT HEAD OF THE GOVERNMENT REQUEST)**

This is a decision on the petition filed July 29, 2002 under 37 CFR 1.102 (b) to make the above-identified application special under the procedure outlined in the above-noted rule where the invention is requested for immediate action by the head of a department of the Government. The delay in treating this petition is sincerely regretted.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 C.F.R. 1.102 (b) requires a request by the head of a department of the Government for immediate action on the application for the reason that the invention is deemed to be of particular importance to some branch of public service.

Applicant's petition lacks a statement from a department head as outlined above. Applicant's petition includes a copy of a letter from Bruce Markert, State Veteran's Program Coordinator for the state of Wisconsin. The rule requires that the statement be made by the head of a department of the Government, which is interpreted to include only the departments of the Government in the Executive Branch (i.e. Department of Energy, Department of Defense, etc.). A statement from Wisconsin's Veteran's Program Coordinator does not rise to the level necessary for making an application special under 37 CFR 1.102(b).

The application will be returned to the Central Files holding area of Technology Center 3600 to await it's regular turn for examination.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868
(703) 605-0586 (facsimile)

SNM/tpl: 2/26/03

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OFFICE OF PETITIONS

SMITH, GAMBRELL & RUSSELL
SUITE 3100, PROMENADE II
1230 PEACHTREE STREET, N.E.
ATLANTA GA 30309-3592

In re Application of :

CARENAS, Rodolfo et al. :
Application No. 10/170,288 : DECISION ON PETITION
Filed: June 13, 2002 : TO WITHDRAW
Attorney Docket No. **048385.00200** : 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 06, 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. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Laurence P. Colton on behalf of all attorneys of record who are associated with customer No. 25461. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Rodolfo Cardenas at the address indicated below.

There are no outstanding office actions at this time.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **RODOLFO CARDENAS**
6032 WYNDHAM WOODS DRIVE
POWDER SPRINGS, GA 30127

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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IBM CORPORATION
3039 CORNWALLIS RD.
DEPT. T81 / B503, PO BOX 12195
RESEARCH TRIANGLE PARK, NC 27709

Mail Date: 04/20/2010

Applicant	: David B. Lindquist	: DECISION ON REQUEST FOR
Patent Number	: 7647523	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/170,300	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/12/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1262** 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
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SCHWEGMAN LUNDBERG WOESSNER & KLUTH PA
P O BOX 2938
MINNEAPOLIS, MN 55402

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OFFICE OF PETITIONS

In re Application of
David S. DeLorenzo et al
Application No. 10/170,313
Filed: June 12, 2002
Attorney Docket No. 884.564US1

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed October 13, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 27, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2835 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed "Supplemental Information Disclosure Statement."

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 8

ALIGN TECHNOLOGY, INC.
ATTENTION: BAO Q. TRAN
881 MARTIN AVENUE
SANTA CLARA, CA 95050

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OFFICE OF PETITIONS

In re Application of	:	
Kuo et al.	:	
Application No. 10/170,322	:	ON PETITION
Filed: June 11, 2002	:	
Attorney Docket No. AT-000203	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 12, 2003, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the non-final Office action mailed March 26, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on June 27, 2003. A Notice of Abandonment was mailed November 18, 2003.

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

The file is now being forwarded to Technology Center 3700 for further examination on the merits.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ALIGN TECHNOLOGY, INC.
ATTENTION: SCOTT SMITH
881 MARTIN AVENUE
SANTA CLARA CA 95050

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OFFICE OF PETITIONS

In re Application of Kuo, et al. Application No. 10/170,322 Filed: June 11, 2002 Docket No.: AT-000203	DECISION ON PETITION

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

The petition is **GRANTED**.

This application became abandoned for failure to timely submit a proper reply to the Office communication mailed April 14, 2005. The Office communication set a one month shortened statutory period of time for reply. Notice of Abandonment was mailed May 19, 2006.

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

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

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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

STEPHEN H. DOCTER
McDONNELL BOEHNEN HULBERT & BERGHOFF
32ND FLOOR
300 S. WACKER DRIVE
CHICAGO, IL 60606

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OFFICE OF PETITIONS

In re Application of
Shon R. Pulley et al
Application No. 10/170,331
Filed: June 12, 2002
Attorney Docket No. 01-1663-C

ON PETITION

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed July 16, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 17, 2002.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

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

Wan Laymon
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

MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

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MAR 15 2005

OFFICE OF PETITIONS

In re Application of :
Shon R. Pulley, et al. :
Application No. 10/170,331 : DECISION GRANTING PETITION
Filed: June 12, 2002 :
Attorney Docket No. 01-1663-C :

This is a decision on the petition styled "Petition to Accord Correspondence Filing Date shown on Express Mail Label 'Date-In' pursuant to 37 CFR 1.10" filed December 2, 2004, requesting that the above-identified application be accorded a filing date of June 12, 2002, instead of the presently accorded date of June 13, 2002.

Applicants request the earlier filing date on the basis that the application was purportedly deposited with the U. S. Postal Service (USPS) as Express Mail on July 12, 2002. In support, applicants provide, inter alia, a copy of the Express Mail label, No. EL904277669US. The same Express Mail receipt number appears on the original transmittal letter found in the file.

It is noted that while the "date-in" entered on the present copy of the Express Mail mailing label is not clear, a search of the U.S. Patent and Trademark Office's USPS Express Mail Information Database confirms that a package bearing Express Mail label No. EL904277669US was accepted by the USPS on June 12, 2002 at 7:02pm. (copy attached)

In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the U.S. Postal Service on June 12, 2002.

The petition is GRANTED.

The application is being referred to Initial Patent Examination Division for correction of the filing date to **June 12, 2002**, and issuance of a Corrected Official Filing Receipt.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.

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

Attachment

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

BACON & THOMAS
625 Slater Lane, 4th Floor
\Alexandria, VA 22314-1176

JAN 16 2003

In re Application of
Yu-Ta Tu et al.
Application No. 10/170,355
Filed: June 14, 2002
Attorney Docket No. TUYA3002/EM/BEU

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102, filed July 1, 2002, 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 VI: Energy.

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 VI, for an invention which materially contributes to the more efficient utilization and conservation of energy resources, must be accompanied by affidavits or declarations under 37 C.F.R. § 1.102 by the applicant, assignee, or his/her attorney or agent explaining how the invention contributes to the efficient utilization ans conservation of energy resources.

The petition was accompanied by a statement by applicant's counsel, Benjamin E. Urcia, explaining how the claimed linear electric generator contributes to the conservation of energy resources.

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 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
(703) 308-7502

UNITED STATES 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

H. THOMAS ANDERTON, JR.
GENENCOR INTERNATIONAL, INC.
925 PAGE MILL ROAD
PALO ALTO, CA 94304-1013

COPY MAILED

JUL 0 8 2004

OFFICE OF PETITIONS

In re Application of	:	
Murray, Christopher J.	:	
Application No. 10/170,387	:	ON PETITION
Filed: June 12, 2002	:	
Attorney Docket No. GC765	:	

This is a decision on the petition under 37 C.F.R. § 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 reply within three months to the non-final Office action mailed August 21, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on November 22, 2003. A Notice of Abandonment was mailed on March 8, 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 May 7, 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 above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application No. 10/839,962.

The file is now being forwarded to the Files Repository.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 5

HOGAN & HARTSON LLP
IP GROUP, COLUMBIA SQUARE
555 THIRTEENTH STREET, N.W.
WASHINGTON DC 20004

COPY MAILED

JAN 07 2003

OFFICE OF PETITIONS

In re Application of
Sack, A.Gehr, G.Gehr, and Espenshade
Application No. 10/170,403
Filed: June 14, 2002
Attorney Docket No. 82321-0026
Invention:ONE HAND PULL COLLAPSIBLE STROLLER

DECISION ON PETITION

This is in response to the petition under 37 CFR 1.47(a), filed December 13, 2002.

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

The instant petition was filed in response to the "Notice to File Missing Parts of Nonprovisional Application" (the "Notice") mailed July 16, 2002, which required an oath or declaration be filed, and filing, claim, and surcharge fees be remitted. The Notice set forth an extendable period for reply of two months from its mailing date. The instant petition was filed on December 13, 2002, along with a request for an extension of time within the third month, and documentary evidence in support of the 37 CFR 1.47(a) petition.

Petitioner has established that, despite being presented with a complete copy of the application papers, inventor A. Gehr has refused to join in the prosecution of the application. 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 will be forwarded to the Office of Initial Patent Examination for further processing.

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

Kenya A. McLaughlin

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JJGJR.: 02-05

Paper No: __

SMITH, GAMBRELL
& RUSSELL, LLP
1850 M STREET, N.W., SUITE 800
WASHINGTON DC 20036

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FEB 11 2005

OFFICE OF PETITIONS

In re Application of :
Choudhury, et al. :
Application No. 10/170,406 :
Filing Date:14 June, 2002 :
Attorney Docket No. 032025 W 0041 :

This is a decision on the petition filed on 26 January, 2005, alleging unintentional delay under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition as considered under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the final Office action mailed on 9 July, 2004, with response due absent extension of time on or before Monday, 11October, 2004;
- Petitioner filed an amendment after final on 7 December, 2004, which was not entered by the Examiner;
- the Examiner issued an Advisory Action on 6 January, 2004;

- the application went abandoned after midnight 9 October, 2004;
- it does not appear that the Office mailed the Notice of Abandonment before the instant petition was filed;
- on 26 January, 2005, Petitioner filed the instant petition and fee, the reply in the form of a Notice of Appeal and fee and made the statement of unintentional delay.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

---

[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[3] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

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**.

Petitioner has two months from the mail date of this decision to file the Appeal Brief in triplicate and fee. Extensions of time are governed by the regulations at 37 C.F.R. §1.136.

The instant application is forwarded to Technology Center 1700 to await the filing of the Appeal Brief and fee by Petitioners, pursuant to the regulations at 37 C.F.R. §1.192.

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] 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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Alexandria, VA 22313-1450
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B. Delano Jordan
c/o BLAKELY, SOKOLOFF, TAYLOR &
ZAFMAN, LLP
12400 Wilshire Blvd.
Seventh Floor
Los Angeles CA 90025

COPY MAILED

JUN 1 8 2007

OFFICE OF PETITIONS

In re Application of

Chandra, et al.

Application No. 10/170,409

Filed: June 14, 2002

Attorney Docket No. 02207/14546

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), May 25, 2007, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $1400.00 and publication fee of $300.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed February 6, 2007. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on May 7, 2007.

The issue fee was received on May 25, 2007.

Form PTOL-85B, filed May 25, 2007, is noted and made of record.

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

in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Cc:
Erik R. Nordstrom
Intel Corporation
1701 Intervail Drive., MS AN1-PTL1
Austin, TX 78746

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APR 22 2010

OFFICE OF PETITIONS

RATNERPRESTIA
P.O. BOX 980
VALLEY FORGE PA 19482

In re Patent of Levy et al.	:	DECISION ON REQUEST
Patent No. 7,589,070	:	FOR
Issue Date: September 15, 2009	:	RECONSIDERATION OF
Application No. 10/170,411	:	PATENT TERM ADJUSTMENT
Filed: June 14, 2002	:	and
Docket No. RCHP-115US	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed October 28, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred ninety-seven (797) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by seven hundred ninety-seven (797) days is **GRANTED to the extent indicated herein.**

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on June 15, 2005 and ends on January 28, 2007, the day before the RCE was filed, and is 593 (not 594) days. See 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 796, not 797 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or

patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **seven hundred ninety-six (796)** days.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,589,070 B2

DATED : **September 15, 2009** **DRAFT**

INVENTOR(S) : Levy 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 308 days

Delete the phrase "by 308 days" and insert – by 796 days--

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COMMISSIONER FOR PATENTS
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APR 25 2005

BLANK ROME
600 New Hampshire NW
Washington, DC 20037

In re application of
Gianluca Cariccia et al
Application No. 10/170,416
Filed: June 14, 2002
For: DRIVE BELT TENSIONER

DECISION ON PETITION TO RESET A PERIOD FOR REPLY

The communication filed January 31, 2005 is being treated as a Petition to Reset a Period for Reply due to applicant not receiving the Final Office action mailed October 7, 2004. There is no fee required for this petition.

The petition is **DISMISSED**.

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

A review of the file indicates that applicant received the Office action in question of January 3, 2005. Applicant filed his petition January 31, 2005. Condition (A) requires the petition to be filed within 2 weeks of the date of receipt of the Office action at the correspondence address. Applicant has not met condition (A).

The Petition to Reset Time Period is therefore **DISMISSED**.

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

KJD/jwk: 3/30/05

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Alexandria, VA 22313-1450
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BLANK ROME
600 NEW HAMPSHIRE NW
WASHINGTON DC 20037

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FEB 17 2006

OFFICE OF PETITIONS

In re Application of:	:	
Cariccia, et al.	:	
Application No. 10/170,416	:	
Filed: June 14, 2002	:	ON PETITION
Attorney Docket No. 116812-00102	:	
For: DRIVE BELT TENSIONER	:	

This is a decision on the petition filed April 6, 2005, for waiver of the rules and refund of the Notice of Appeal filing fee and two months of the three month extension of time fee paid on April 6, 2005. The petition will be treated under 37 CFR 1.183 and 1.181.

Pursuant to petitioners' authorization, deposit account no. 23-2185 will be charged therequired $400.00 Rule 183 petition fee.

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

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

Any further petition 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. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The Office mailed a final Office action on October 7, 2004 to:

BLANK ROME COMISKY & MCCAULEY LLP
THE FARRAGUT BUILDING
SUITE 1000
900 17TH STREET, NW
WASHINGTON, DC 20006

Petitioners state that the October 7, 2004 final Office action was not received at their current address until January 3, 2005 because it was mailed to the above-listed out-of-date correspondence address due to the Office's failure to enter a June 13, 2003 change of correspondence address in the application.

On January 31, 2005, applicants requested that the period to reply to the October 7, 2004 Office action be reset to run from January 3, 2005, which is the date it was received.

Petitioner filed a Request for Reconsideration, a Notice of Appeal and fee, a request for a three month extension of time and fee, and the instant petition on April 6, 2005.

The January 31, 2005 request to reset the period to reply to the October 7, 2004 Office action was dismissed by SPRE Kenneth J. Dorner on April 25, 2005.

In the instant petition, petitioners state that the Notice of Appeal and fee and the three month extension of time fee were submitted only because the Office failed to reset the period for response to run from the receipt date of the Office action at applicants' current correspondence address, which was on January 3, 2005. Petitioners argue that only a one month extension of time should be required and the Notice of Appeal would not have been necessary if applicants had two months to come to agreement with the examiner.

The Office is of the opinion that the June 13, 2003 change of correspondence address was improper with respect to this application. Petitioners filed a change of correspondence address on June 13, 2003 that listed over 1,300 applications. The above-identified application was listed in minuscule print on one of the pages listing the 1,300 applications.

Each application must be complete in and of itself. Rule 1.4(b). It is noted that the June 13, 2003 change of address is not present in this application file other than as an attachment to the petitions and that the cover letter to the change of address does not reference the above-identified application. The change of address was not directed to the file of application no. 10/170,416 in a way to draw attention to it. In short, applicants did not submit a proper change of address. In the future, the use of Customer Number practice is encouraged.

The October 7, 2004 final Office action was mailed to the proper correspondence address of record. This position is supported by the SPRE decision of April 25, 2005 that refused petitioners' request to reset the period for response to the October 7, 2004 final Office action.

Regarding the request for refund of the Notice of Appeal and two of the three months of the extension of time fee, petitioners are reminded that the applicable statute, 35 U.S.C. 42(d), authorizes the Commissioner to refund "any fee paid by mistake or any amount paid in excess of that required." Thus the USPTO may refund: (1) a fee paid when no fee is required (*i.e.*, a fee paid by mistake), or (2) any fee paid in excess of the amount of the fee that is required. See Ex Parte Grady, 59 USPQ 276, 277 (Comm'r Pats. 1943) (the statutory authorization for the refund of fees is applicable only to a mistake relating to the fee payment, and not the underlying action). 37 CFR 1.26(a)

The extension of time fee and the Notice of Appeal fee were not fees paid when no fees were required, and were not fees paid in an amount in excess of that required. In order to be refundable, the mistake must clearly be in relation to the payment itself, and not the underlying action. Grady, supra. The amounts paid were owed at the time they were paid. Such is not a mistake within the meaning of the aforementioned statute and regulation, that warrants a refund.

There was no mistake relating to the payments themselves. The rules of practice are clear that prosecution of an application to save it from abandonment must include such complete and proper action as the condition of the case may require. Petitioners were acting as prudent practitioners when they paid the Notice of Appeal fee. Such conscientious patent practice is not a mistake within the meaning of the aforementioned statute and regulation that warrants a refund.

Petitioner is reminded that the word "shall" appears in 35 USC § 41(a)(6)(A) pertaining to collection of a fee upon the filing of a Notice of Appeal with the PTO. It is well settled that the use of "shall" in a statute is the language of command, and where the directions of a statute are mandatory, then strict compliance with the statutory terms is essential. Farrel Corp. v. U.S. Int'l Trade Comm'n, 942 F.2d 1147, 20 USPQ2d 1912 (Fed. Cir. 1991). That is, it is mandatory that the Commissioner charge, and the applicant pay, the fees specified by statute upon presentation of a request for a service by the PTO. See BEC Pressure Controls Corp. v. Dwyer Instruments, Inc., 380 F.Supp. 1397, 1399, 182 USPQ 190, 192 (N.D. Ind. 1974). The language of the statute does not permit the Commissioner any discretion with respect to charging the fees set forth therein. Id.

The fees will not be refunded.

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

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

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

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

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

E. Shirene Willis

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/2/04

Paper No.: 2/2/05

TO SPE OF : ART UNIT 1600

10/170 426

SUBJECT : Request for Certificate of Correction on Patent No.: 6750250 B1

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

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

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

Virginia Tolbert
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:

It is okay to enter the corrections.

Cecilia Tang
SPE

1625
Art Unit

B1

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

2/2/05

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

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APR 21 2005

OFFICE OF PETITIONS

In re Application of
Chwei-Jing Yeh, et al.
Application No. 10/170,450
Filed: June 14, 2002
Attorney Docket No. 3313-0595P-SP

ON PETITION

This is a decision on the petition under 37 CFR 1.314 filed April 14, 2005, to defer issuance of the patent.

The petition is GRANTED.

Issuance will be deferred for a period of one month from the date of this decision. At the end of this period, the application will be forwarded to the Publishing Division to be processed into a patent.

In the meantime, this application is being returned to the Technology Center AU 2655 for consideration of the petition under 37 CFR 1.48(a) April 12, 2005.

If an additional deferral period is required, another petition and fee should be promptly submitted. The petition must include a showing of extraordinary circumstances; MPEP 1306.01 and be addressed as follows:

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

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

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

The centralized facsimile number is **(703) 872-9306**.

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

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

OIPE JC98
APR 1 1 2003
PATENT & TRADEMARK OFFICE

PATENT
2870-0198P

IN THE U.S. PATENT AND TRADEMARK OFFICE

Applicant:	Yoshihiko MAKINO et al.	Conf.:	9809
Appl. No.:	10/170,452	Group:	1743
Filed:	June 14, 2002	Examiner:	UNKNOWN
For:	A METHOD FOR ANALYZING A TARGET NUCLEIC ACID FRAGMENT AND A KIT FOR ANALYZING A TARGET NUCLEIC ACID FRAGMENT		

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APR 1 4 2003
TC 1700

L E T T E R

Assistant Commissioner for Patents
Washington, DC 20231

April 11, 2003

Sir:

Enclosed herewith is a Supplemental Declaration that should be made part of the record of the present application.

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.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By _____
Marc S. Weiner, #32,181

P.O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000

MSW/ETP/las
2870-0198P

Attachment

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Paper No. 12

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

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MAY 22 2003
OFFICE OF PETITIONS

In re Application of :
MAKINO et al. :
Application No. 10/170,452 : ON PETITION
Filed: June 14, 2002 :
Attorney Docket No. 2870-0198P :

This is a decision on the petition under 37 CFR 1.55(c), filed on March 4, 2003, requesting acceptance of an unintentionally delayed claim under 35 USC 119 (a) - (d) for benefit of the filing date of the following foreign application: Japanese Patent Application No. 180131/2001 filed on June 14, 2001.

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date;

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

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.); and

(5) the nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The present pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. This is an appropriate petition under the provisions of 37 CFR 1.55(c) because the claim for priority was submitted after the period specified in 37 CFR 1.55(a)(1)(i).

The above-identified nonprovisional application was filed on June 14, 2002 within twelve months of June 14, 2001, which is the earliest filing date of the foreign applications to which benefit is claimed. On April 11, 2003, petitioner filed an executed declaration which identified the foreign application for which priority was claimed by application number, country and filing date. Petitioner submitted $1,240.00 towards the payment of the surcharge. The amount of the surcharge is $1,300.00. Pursuant to petitioner's authorization, the balance due of $40.00 has been charged to Deposit Account No. 02-2448. Petitioner has also provided a certified copy of the foreign patent application. Lastly, petitioner presented an adequate statement of unintentional delay.

All requirements being met, the petition is **granted**.

Enclosed is a corrected filing receipt, which includes the foreign priority claim and the projected publication date for the above-identified application.

The application is be forwarded to Technology Center 1600 for consideration by the examiner of record of the foreign priority claims under 35 USC 119 and 37 CFR 1.55(c).

Any inquiries directly pertaining to this matter may be directed to undersigned at (703) 306-5589.

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
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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

Mail Date: 06/11/2010

Applicant	: Piero Patrone Bonissone	: DECISION ON REQUEST FOR
Patent Number	: 7630910	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/170,471	: 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 **1401** 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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JUN 22 2007

OFFICE OF PETITIONS

Sydney Hyman
51 Greene Street, #3
New York NY 10013

In re Application of
Hyman
Application No. 10/170,503
Filed: June 14, 2002
Docket No.: 999997-50261

DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 13, 2007, to revive the above-identified application.

The petition is GRANTED.

This application became abandoned September 23, 2006 for failure to timely submit a proper reply to the non-final Office action mailed June 22, 2006. The non-final Office set a three (3) month shortened statutory period of time for reply. No extensions of time in accordance with 37 C.F.R. § 1.136 were timely requested. This decision precedes Notice of Abandonment.

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

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

The correspondence address indicated in the instant petition differs from that currently of record. If practitioner desires to receive future correspondence regarding this application, the appropriate documentation must be submitted to the Office.

Please be advised that all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

This application is being forwarded to Technology Center 1700 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: ALLAN FANUCCI
Winston and Strawn
200 Park Ave
New York, NY 10166

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Paper No. 6

ANDREW V. SMITH
GRAY CARY WARE & FREIDENRICH LLP
153 TOWNSEND STREET, SUITE 800
SAN FRANCISCO, CA 94107

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JUL 3 0 2003

OFFICE OF PETITIONS

NOTICE

In re Application of :
Michael Deluca :
Application No. 10/170,511 :
Filed: June 12, 2002 :
Attorney Docket No. MJD02-002

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

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

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

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

This file is being forwarded to Technology Center 2600.

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

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KATTEN MUCHIN ZAVIS ROSENMAN
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525 WEST MONROE STREET
CHICAGO, IL 60661-3693

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JUL 0 6 2005

OFFICE OF PETITIONS

In re Application of
Thomas Neil Horsky et al
Application No. 10/170,512
Filed: June 12, 2002
Attorney Docket No. 211843-00010

: DECISION ON PETITIONS

This is a decision on the petition, filed July 1, 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 July 1, 2005, which is being treated as a petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§120, 365(c) and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **Granted**.

As to the petition under 37 CFR 1.313(c)(2):

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

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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).

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

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

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

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional applications as required by 37 CFR 1.78(a)(5)(ii). Additionally, the instant nonprovisional application was filed within twelve months of the filing date of the prior-filed provisional applications, Application No. 60/250,080, which was filed on November 30, 2000, and Application No. 60/170,473, filed on December 13, 1999, for which priority is claimed.

The petition complies with the requirements for a grantable petition under 37 CFR §§1.78(a)(3) and 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 365(c) and § 119(e) to the above-noted, prior-filed applications satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should <u>not</u> be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In

order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 365(c) and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should <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 the undersigned at (571) 272-3208. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2821 for appropriate action on the amendment submitted July 1, 2005, including consideration by the examiner of the claim under 35 U.S.C. § §120 and 365(c) and 37 CFR 1.78(a)(2) for the benefit of the prior-filed PCT application, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional applications.

Karen Creasy

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

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 4

ROBIN BLECKER & DALEY
2ND FLOOR
330 MADISON AVENUE
NEW YORK NY 10017

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AUG 1 3 2002

OFFICE OF PETITIONS

In re Application of
Yoichi Yomigishi
Application No. 10/170516
Filed: July 16, 2002
Attorney Docket No. B208-628 DIV CONT II

DECISION GRANTING PETITION

This is a decision on the petition filed on July 16, 2002, requesting that the above-identified application be accorded a filing date of July 16, 2002, with Pages 4, 5, 42, 71 and 82 of the specification as part of the original disclosure.

On June 11, 2002, applicant filed the above-identified application. However, on July 9, 2002, the Office of Initial Patent Examination mailed a "Notice of Omitted Items," stating that a filing date had been assigned in the application, however, Pages 4, 5, 42, 71 and 82 of the specification described in the specification appeared to be omitted from the application.

In response, on July 16, 2002, applicant filed the present petition to accord a filing date of July 16, 2002, with Pages 4, 5, 42, 71 and 82 of the specification as part of the original disclosure as well as a copy of Pages 4, 5, 42, 71 and 82 of the specification. The petition states that applicant hereby petitions under 37 CFR 1.182 to accept the date of submission of the missing pages of the specification as the application filing date.

The petition is **GRANTED**.

With respect to the requirement for a supplemental oath or declaration, pursuant to 37 CFR 1.63 and since this application was filed as a continuation application, the filing of a supplemental oath or declaration will be waived.

The application file will be forwarded to the Office of Initial Patent Examination for reprocessing with a filing date of July 16, 2002, using the original application papers filed on June 11, 2002, and the five (5) sheets of the specification, pages 4, 5, 42, 71 and 82 filed on July 16, 2002.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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#23

GRAY CARY WARE & FREIDENRICH LLP
2000 UNIVERSITY AVENUE
E. PALO ALTO CA 94303-2248

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AUG 25 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Daniel Jacobs, et al.	:	
Application No. 10/170,530	:	
Filed: June 12, 2002	:	
Attorney Docket No. 235692000122	:	

This is a decision on the petition, filed August 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 19, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being referred to Technology Center AU 3731 for further processing of the request for continued examination under 37 CFR 1.114 filed August 23, 2004.

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

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

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DLA PIPER RUDNICK GRAY CARY US, LLP
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E. PALO ALTO CA 94303-2248

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OFFICE OF PETITIONS

In re Application of	:	
Daniel Jacobs et al	:	
Application No. 10/170,530	:	ON PETITION
Filed: June 12, 2002	:	
Attorney Docket No. 235692000122	:	

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

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

The examiner of Technology Center AU 3731 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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E. PALO ALTO, CA 94303-2248

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MAR 01 2005

OFFICE OF PETITIONS

In re Application of
Daniel Jacobs, et al. :
Application No. 10/170,530 : ON PETITION
Filed: June 12, 2002 :
Attorney Docket No. 235692000122 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 10, 2005, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for 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 December 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

After the application is received in the Office of Petitions, the file will be forwarded to Technology Center AU 3731 for further processing of the request for continued examination under 37 CFR 1.114.

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

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

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JJGJR.: 08-07

Paper No: __

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OFFICE OF PETITIONS

BIRCH STEWART
KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of	:	
Fermgard	:	DECISION
Application No.: 10/170,542	:	
Filing Date: 14 June, 2002	:	
Attorney Docket No. 3782-0229P	:	

This is a decision on the petition filed on 15 February, 2005, and reasserted on 15 August, 2006, to withdraw the holding of abandonment and considered under 37 C.F.R. §1.181.

The Office regrets the delay in addressing this matter, however, the petition was not presented to the attorneys in the Office of Petitions until this writing.

For the reasons set forth below the petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

NOTES:

Monitoring of the status of applications on Private PAIR will inform one's management of application responses and provide an indication when mailings of Office actions should be expected.

Further, the filing of Status Inquiries at three- (3-) or four- (4-) month intervals following Applicant's/Petitioner's filing of a response to an Office action or other papers may provide evidence of the diligence required in prosecution.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Allowance and Fees Due mailed on 23 August, 2004, with reply due under a non-extendable deadline on or before 23 November, 2004;

- the instant application went abandoned after midnight 23 November, 2004;

- it appears that the 23 August, 2004, Notice of Allowance was returned by the U.S. Postal Service (USPS) on or about 25 August, 2005, as undelivered;

- on 15 February, 2005, Petitioner filed the initial petition and evidenced with copies of Petitioner's records and documents obtained from the Office that the 23 August, 2004, Notice of Allowance was not received by Petitioner and/or his office–and in fact was returned as undelivered to the Office–and Petitioner further requested that Notice be re-mailed;

- the application file appears to have been misplaced, and in response to the request of the Office, on 17 April 2006, Petitioner submitted documents in an effort to reconstruct the file;

- the Office mailed the Notice of Abandonment on 15 June, 2006;

- on 15 August, 2006, Petitioner re-advanced the instant petition with further evidence of the events as discussed above.

Out of an abundance of caution, Petitioners always are reminded that:

- the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and

- those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[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

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

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circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[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.

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]))

Withdrawal of the
Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[8]

Further, the commentary at MPEP §711.03(c) provides:

* * *

> **A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action**
>
> In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an

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[3] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[4] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[7] 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).

> Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.
>
> * **
>
> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).
>
> Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). (Emphasis supplied.)
>
> * * *

And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears now to have satisfied the showing requirements described above.

CONCLUSION

Because it appears that Petitioner has now satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 hereby is **granted** and the 15 June, 2006, Notice of Abandonment is **vacated**.

The application is released to Technology Center 2600 for further processing in due course–to include the re-mailing of the 23 August, 2004, Notice of Allowance/Allowability and Fees Due.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[9]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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[9] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 09-07

Paper No: __

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OFFICE OF PETITIONS

BIRCH STEWART
KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of	:	
Kim, et al.	:	DECISION
Application No.: 10/170,543	:	
Filing Date: 14 June, 2002	:	
Attorney Docket No. 20950-0210P	:	

This is a decision on the petition, filed on 2 July, 2007, to withdraw the holding of abandonment and considered under 37 C.F.R. §1.181.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.[1]

For the reasons set forth below the petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

BACKGROUND

The record reflects that:

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[1] **NOTE: Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected. Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.**

- Petitioner failed to reply timely and properly to the non-final Office action mailed 19 June, 2006, with reply due absent an extension of time on or before 19 September, 2006;
- the application went abandoned by operation of law after midnight 19 September, 2006;
- on 19 December, 2006, Petitioner filed an extension of time and fee and an amendment after final, which as one registered to practice before the Office Petitioner was/is aware is not of right (and the Examiner found that it was not a proper reply[2] and mailed an Advisory action on 23 January, 2007);
- on 19 December, 2006, Petitioner filed, *inter alia*, a Notice of Appeal and fee and request for extension of time and fee;
- the Office mailed the Notice of Abandonment on 21 May, 2007;
- on 2 July, 2007, Petitioner filed the instant petition, and averred therein, *inter alia*, timely reply (with request and fee for extension of time) filed contemporaneously in the form of a a request for continued examination (RCE) and fee and designating the previously filed after-final amendment as the submission under 37 C.F.R. §1.114.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) can inform an applicant/practitioner as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running as to any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

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[2] A proper reply is a an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission). (See: MPEP §711.03(c).)

[3] 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

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).[4]

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.[5]

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signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[4] 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.

[5] 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.[6] 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).[7]

And the Petitioner must be diligent in attending to the matter.[8] 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.[9]))

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.[10]

The commentary at MPEP §711.03(c) provides:

* * *

> **B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed**
>
> 37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), * (e), or (g) (see MPEP § 513). When a paper

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[6] 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).

[7] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[8] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[9] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[10] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. §1.8(b) and MPEP § 512. As stated in 37 C.F.R §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to

> wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.
>
> * * *

Moreover, the regulation places upon Petitioner a diligence requirement to seek relief within two (2) months of the act complained of.

It appears Petitioner has satisfied the showings required herein.

CONCLUSION

The petition as considered under 37 C.F.R. §1.181 is **granted**, and the 21 May, 2007, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center 2600 for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[11]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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[11] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON, D.C. 20005

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MAR 3 0 2004

OFFICE OF PETITIONS

Applicant: del Puerto
Appl. No.: 10/170,546
Filing Date: June 14, 2002
Title: METHOD AND APPARATUS FOR MANAGING ACTINIC INTENSITY TRANSIENTS IN A LITHOGRAPHY MIRROR
Attorney Docket No.: 1857.0760000
Pub. No.: US 2003/0231415 A1
Pub. Date: December 18, 2003

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on January 5, 2004.

The request is DISMISSED.

The instant request is that the application be republished because the assignee information on the front page of the patent application publication contains **a material error by the USPTO** wherein the Assignee name "ASML Holding N.V." is misprinted as "ASML US, Inc." and because the inventors last name "del Puerto" is improperly listed as "Puerto" on the upper left hand portion of the front page of the published patent application.

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 printed correctly on the patent application publication, as it was provided on the transmittal letter.[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. While Applicant's representative now argues that the USPTO committed a material error in the publication of the application as it printed "ASML US, Inc.," not "ASML Holding N.V." in the assignment information on the front page of the published application, the Applicant's representative provided "ASML US, Inc." on the application transmittal letter. The inventors complete last name (del Puerto) not being properly listed on the upper left hand corner of the published patent application is an Office error, but it is not a material error. The inventor's complete name is also properly listed on the front page in item (75) inventor's as Santiago del Puerto. The error is not a material mistake because the

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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).

technical disclosure and the claims are understandable. The error does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

On August 15, 2002, a Filing Receipt (copy enclosed) was mailed listing the assignee name as "ASML US, Inc.." To avoid this type of problem in the future, applicants' representative should make request a corrected filing receipt using the facsimile number (703-746-9195) on the Filing Receipt.

Applicants' request for a corrected patent application publication on January 5, 2004, may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the application." See 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

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

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

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

The application will be issued 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: Copy of previously mailed Filing Receipt
Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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STERNE, KESSLER, GOLDSTEIN & FOX
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Santiago Del Puerto	:	
Application No. 10/170,546	:	
Filed: June 14, 2002	:	
Attorney Docket No. 1857.0760000	:	

This is a decision on the petition, filed January 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 December 16, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2872 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

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UNITED STATES PATENT AND TRADEMARK OFFICE
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DW 11-02

Paper No. 4

YOUNG & THOMPSON
745 SOUTH 23RD STREET 2ND FLOOR
ARLINGTON VA 22202

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OFFICE OF PETITIONS

In re Application of Antonio Campagnoli Application No. 10/170,547 Filed: 14 June, 2002 Attorney's Docket No. 2513-1004	: : : : :	ON PETITION

This is a decision on the petition filed on 30 September, 2002, requesting that the above-identified application be accorded a filing date of 14 June, 2002, with Page 7 of the specification as a part of the original disclosure.

The petition is granted.

The application was filed on 14 June, 2002.

Accordingly, on 30 July, 2002, Initial Patent Examination Division mailed a Notice of Omitted Item(s) in a Nonprovisional Application, stating that the application had been accorded a filing date of 14 June, 2002, but that page 7 of the specification (description and claims) appeared to have been omitted.

In response, on 30 September, 2002, the present petition and a copy of Pages 1-8 of the specification were filed. Petitioner argues that Page 7 was filed with the other application papers on 14 June, 2002, but was subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioner's postcard receipt was supplied with the present petition. The postcard receipt shows an Office date stamp of 14 June, 2002, identifies the application by first named inventor's name, docket number, and invention title, and acknowledges receipt of, *inter alia*, 8 pages specification w/11 claims.

Petitioner requests that the application, including Page 7 of the specification, be accorded a filing date of 14 June, 2002.

A review of the record reveals that no Page 7 of the specification has been located among the application papers received on 14 June, 2002. However, the evidence is convincing that the application papers deposited on 14 June, 2002, included Page 7 of the specification (description and claims), which was subsequently misplaced in the Office. Therefore, the application, including Page 7 of the specification, is entitled to a filing date of 14 June, 2002.

The "Notice" mailed on 30 June, 2002, is withdrawn.

In view of the above, the petition is granted. No petition fee has been charged and none is due.

The application will be processed with the copy of Page 7 of the specification supplied on 30 September, 2002, as a part of the original disclosure. The copies of the other application papers supplied on 30 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 14 June, 2002, using the application papers filed on 14 June, 2002, and the copy of Page 7 of the specification supplied on 30 September, 2002.

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

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jc996 U.S. PTO
10/170561
06/12/02

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

In re Application of
Harrington, et al.
Application No. 09/388,566
Filed: September 2, 1999
Attorney Docket No. 303.614US1

DECISION ACCORDING
STATUS UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed November 9, 2000.

The petition is GRANTED.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, a copy of a letter sent to the nonsigning inventor at his last known address in which it is set forth that the application papers and declaration were enclosed for his review and signature is sufficient evidence to establish that a *bona fide* attempt was made to provide the nonsigning inventor with the application papers and that the nonsigning inventor refuses to sign the declaration.

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

As provided in Rule 1.47(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.

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for issuance of a corrected filing receipt.

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

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

Schwegman, Lundberg,
Woessner & Kluth, P.A.

JAN 3 1 2001
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Paper No. 11

Bacon & Thomas, PLLC
625 Slaters Lane, 4th Floor
Alexandria, VA 22314

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Tseng-Lu Chien	:	
Application No. 10/170,584	:	
Filed: June 14, 2002	:	
Attorney Docket No. CHIE3027beu	:	

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

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 9, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight October 9, 2003.

In response, petitioner submitted with the instant petition $665 for the petition to revive fee, and an amendment.

The petition is **GRANTED**.

The application file is being forwarded to Technology Center Art Unit 2875, 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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FOURTH FLOOR
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of	:	
Tseng-Lu Chien	:	
Application No. 10/170,584	:	ON PETITION
Filed: June 14, 2002	:	
Attorney Docket No. CHIE3027	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 8, 2008, to revive the above-identified application.

The application became abandoned for failure to respond to the Notice to File Corrected Application Papers mailed on June 25, 2007.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies slightly from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of fourteen (14) sheets of formal drawings containing Figures 1-28; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to the Office of Data Management for further processing into a patent.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/170,622	06/14/2002	Santos Eliud Sepulveda Carlos	216073US30

CONFIRMATION NO.
9594

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

Decision Dismissing Petition under 37 CFR 1.138(c)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(c) for express abandonment to avoid publication of the above-identified application, for which a faxed copy of the original petition was received on November 17, 2003.
The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition under 37 CFR 1.138(c) was not received in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process.

2. ■ The Application was published on December 18, 2003, in compliance with 35 U.S.C. 122(b), the publication number is US20030231317A1, and it is available on the USPTO web site at http://www.uspto.gov/patft/index.html.

The application **has been published** as scheduled.

Telephone inquiries should be directed to the Office of Patent Publication, the Pre-Grant Publication Division, at 703-605-4282.

Barbara J. Debnam
Office of Patent Publication
Pre-Grant Publication Division

Rev. 10/01

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Wilson Sonsini Goodrich & Rosati
650 Page Mill Road
Palo Alto, C 94304-1050

In re Application of

Dimitris K. Agrafiotis et al.
Application No. 10/170,628
Filed: June 2, 2002
Attorney Docket No. 30923-712-302

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 18, 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 Vicki G. Norton on behalf of all attorneys of record.

All attorneys/agents have been withdrawn.

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

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

There is an outstanding Office action mailed July 11, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

David Bucci
Petitions Examiner
Office of Petitions

cc: **Dimitris K. Agrafiotis**
660 Perimeter Drive
Downington, PA 19335

cc: **Johnson & Johnson Patent Law Dept.**
One Johnson & Johnson Plaza
Brunswick, NJ 08933-7003

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20060615

DATE : June 15, 2006

TO SPE OF : ART UNIT 3745

SUBJECT : Request for Certificate of Correction on Patent No.: 6979178

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:

Edward Look

SPE: Edward Look **Art Unit** 3745

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Thomas L. Irving
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.
1300 I Street, N.W.
Washington DC 20005-3315

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MAR 0 3 2004

OFFICE OF PETITIONS

Applicant: Tournilhac
Appl. No.: 10/170,655
Filing Date: June 14, 2002
Title: COMPOSITION BASED ON SILICONE OIL STRUCTURED IN RIGID FORM, ESPECIALLY FOR COSMETIC USE
Attorney Docket No.: 08847.0003-00
Pub. No.: US 2003/0072730 A1
Pub. Date: April 17, 2003

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on June 16, 2003.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains mistakes in paragraph 65, wherein "4°" is misspelled as "40;" paragraph 81, last sentence, there is a misplaced "1" after the period; paragraph 136, first line "R^1" is misspelled as "R_1"; paragraph 177, formula (VI), the single bonds are missing at the ends of the formula and in claims 48 and 72, formula X, "m_1" is misspelled as "m".

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 typographical errors in the patent application publication such as the misspelling of "40" for "4°" is a minor typographical error, as it is in a list going from "1°, 2°, 3° . . . 9°", which is clearly understandable. The typographical errors in the dangling "1" and the missing bonds at the end of the chemical formula are clearly minor typographical errors, which are clearly understandable. Which respect to the typographical errors in the subscripts and superscripts in the chemical formula, each error is clearly understandable from reading the formula. The mistakes are minor typographical errors which are understandable from reading the specification, sentence or claim in which the term is used, as terms are not read in a vacuum. The mistakes do not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an

[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).

applicant may seek to enforce upon issuance of a patent.

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

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

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

By facsimile: 703-305-8568

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

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OFFICE OF PETITIONS

In re Application of Hayashi et al. :
Application No. 10/170,707 :
Filing Date: June 14, 2002 :
Attorney Docket No. 03560.003057 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(a), filed October 25, 2007, to revive the above-identified application. The petition is also being treated under 37 CFR 1.181 (no fee) as a petition to withdraw the holding of abandonment.

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

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

This application was held abandoned for failure to timely respond to the Office action of August 22, 2006, which set a three (3) month shortened statutory period for reply. A reply was due on or before November 22, 2006. The Office did not receive a reply to the Office action. As a result, a Notice of Abandonment was mailed on September 26, 2007.

The instant petition has established the Office action was never received at the address of record. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Since the petition has been granted under 37 CFR 1.181, petitioner's request to have the petition considered under 37 CFR 1.137(a) is dismissed as moot. No petition fee is required for a petition to withdraw holding of abandonment under 37 CFR 1.181. Therefore, the petition fee of $510 has been credited back to petitioner's deposit account.

Technology Center Art Unit 2136 will be informed of the instant decision and the application, including the amendment filed October 25, 2007, will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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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MAY 12 2003

UR
PAPER NO. 9

In re Application of Yu-Ta Tu Serial Number: 10/170,716 Filed: June 14, 2002 For: SECONDARY CELL	:	DECISION ON PETITION UNDER M.P.E.P. 708.02,V & VIB

This is in response to the petition filed, July 01, 2002 requesting that the above-identified application be granted Special Status under section 708.02 (V), and alternatively under Section 708.02 (VIB) of the MPEP and 37 CFR 1.102(c) (no fee required).

The request for Special Status considered under Section 708.02 (V) is granted because criteria under 37 CFR 1.102(c) has been met.

The request for Special Status under section 708.02 (VI B) is granted because criteria under 37 CFR 1.102(c) has been met.

Accordingly the petition is **GRANTED.**

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Bacon & Thomas, PLLC
625 Slaters Lane
Fourth Floor
Alexandria, VA 22314

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Paper No. 5

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA VA 22314

In re Application of:
Yu-Ta Tu et al.
Application No. 10/170,717
Filed: June 14, 2002
For: **SELF-RECHARGEABLE PORTABLE TELEPHONE**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition to make special filed on July 1, 2001, under MPEP 708.02 V: Environmental Quality and MPEP 708.02 VI: Energy.

A petition to make special under the Manual of Patent Examination Procedure (hereinafter "M.P.E.P.") §708.02 V must be accompanied by a statement by a registered practitioner, assignee, or applicant explaining how the invention materially enhances the quality of the environment. A petition to make special under M.P.E.P. §708.02 VI must be accompanied by a statement explaining how the invention materially contributes to the discovery or development of energy resources or the more efficient utilization and conservation of energy resources. No fee is required.

The petition meets all the above-listed requirements.

Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

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

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Paper No. 7

DAYCO PRODUCTS, LLC
1 PRESTIGE PLACE
MIAMISBURG OH 45342

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APR 2 7 2004

OFFICE OF PETITIONS

In re Application of
Rafael L. Cleveland, et al.
Application No. 10/170,749
Filed: June 13, 2002
Attorney Docket No. 99-21

ON PETITION

This is a decision on the petition, filed April 15, 2004, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The application became abandoned for a failure to reply in a timely manner to the non-final Office action mailed October 3,2003, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. A Notice of Abandonment was mailed on April 12, 2004. On April 15, 2004, an amendment and the present petition were filed.

The petition is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9220. All other inquiries regarding this application should be directed to the Technology Center.

The application file is being forwarded to Technology Center AU 3679 for consideration of the amendment filed April 15, 2004.

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

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Paper No. 6

DAVID R PRESTON & ASSOCIATES
12625 HIGH BLUFF DRIVE
SUITE 205
SAN DIEGO CA 92130

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OFFICE OF PETITIONS

In re Application of	:
Djaballah, Rongey, Patel, Wang,	:
Coyle, Li and Worland	: DECISION ACCORDING STATUS
Application No. 10/170,758	: UNDER 37 CFR 1.47(a)
Filed: 13 June, 2002	:
Atty Docket No. ANP-00102.P.1.1.1	:

This is in response to the petition filed under 37 CFR 1.47(a) on 2 December, 2002.

The petition is **GRANTED**.

Petitioner has shown that the non-signing inventor, Hakim Djaballah, has refused to join in the filing of the above-identified application after having been mailed a copy of the application papers. Specifically, petitioners have shown that a copy of the application was sent to the non-signing inventor, but the inventor failed to return a signed declaration naming him as a joint inventor along with joint inventors Rongey, Patel, Wang, Coyle, Li, and Worland.

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

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

The application is being forwarded to Technology Center 1600 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

Hakim Djaballah
10043 Kika Court
San Diego, CA 92129

In re Application of
Djaballah et al.
Application No. 10/170,758
Filed: 13 June, 2002
For: METHODS OF SCREENING FOR LIGANDS OF TARGET MOLECULES

Dear Dr. Djaballah:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at 703/308-6918. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

DAVID R PRESTON & ASSOCIATES
12625 HIGH BLUFF DRIVE
SUITE 205
SAN DIEGO CA 92130

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20091110

DATE : November 12, 2009

TO SPE OF : ART UNIT 1656

SUBJECT : Request for Certificate of Correction on Patent No.: 7365175 - SN. 10/710786

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: /Andrew Wang/ **Art Unit** 1656

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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www.uspto.gov

Paper No. 5

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

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OCT 0 2 2002

OFFICE OF PETITIONS

In re Application of	:	
Ekwuribe et al.	:	
Application No. 10/170,800	:	DECISION GRANTING
Filed: June 12, 2002	:	PETITION
Attorney Docket No. 9233-45CT	:	

This is a decision on the petition filed September 9, 2002, to accord the above-identified application a filing date of June 12, 2002.

On June 12, 2002, the application was deposited.

On July 8, 2002, the Office of Initial Patent Examination mailed a Notice stating that drawings were missing and that a filing date would be accorded upon receipt of drawings.

In response, the present petition alleges the Utility Patent Application Transmittal sheet incorporated by reference the entire disclosure of the parent application.

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

Based on the incorporation by reference, it appears that a drawing was present in the Office on June 12, 2002, albeit in the file of another application, i.e., application No. 09/697,795. Therefore, on petition, the application may be accorded the requested filing date of June 12, 2002.

In view of the above, the petition is **granted**. The copy of the drawing submitted with the petition will be used for examination purposes.[1]

The petition fee of $130 will be charged to petitioner's deposit account since a petition is required to accord the application the requested filing date.

Pursuant to 37 CFR 1.84(u): "Where only a single view is used in an application to illustrate the claimed invention, it must not be numbered and the abbreviation 'FIG.' must not appear." Therefore, applicants must file a preliminary amendment to delete the label "Figure 1" from the one (1) sheet of drawings, as well as any reference to "Figure 1" in the specification prior to the first action on the merits.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of June 12, 2002, using the application papers filed on June 12, 2002, and the drawing filed on September 9, 2002.

---

[1] The Office assumes that the drawing is a true and exact copy of a drawing submitted in the parent application. If this is not the case, then petitioner must notify the Office.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

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APR 19 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Nnochiri Nkem Ekwuribe et al. :
Application No. 10/170,800 :
Filed: June 12, 2002 :
Attorney Docket No: 9233-45CT

This is a decision on the petition under 37 CFR 1.137(b)[1], filed April 3, 2006, to revive the above-identified application.

The petition is **GRANTED**.

A Final Office Action was mailed April 21, 2004 setting a three month shortened statutory period for reply. No response or request for an extension of time having been filed in this application prior to the expiration of the time set for reply, this application became abandoned July 22, 2004. Accordingly, a Notice of Abandonment was mailed December 15, 2004.

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 $750; and (3) an adequate statement of unintentional delay.

Since this application is being revived for purposes of continuity only and since continuity has been established by this decision reviving the application, the application is again abandoned in favor of continuation application no.10/970,571 filed October 21, 2005, pursuant to the provisions of 37 CFR 1.53(b).[2]

---

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

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

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

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

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

[2]The continuation application was filed as a response to the Final Office Action mailed April 21, 2004 but without having extended the time for reply in the instant application.

The record reveals also that a three month extension of time was filed with the instant petition, however, pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $1020.00 extension of time fee submitted with the petition on April 3, 2006, was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to counsel's deposit account no. 13-4365.

Additionally, however, there is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision 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.

This matter is being referred to Technology Center 1614 for processing of the continuation application filed October 21, 2004.

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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Paper No. 7

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

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MAR 2 5 2004

OFFICE OF PETITIONS

In re Application of	:	
Kenji Yamagami	:	
Application No. 10/170,804	:	ON PETITION
Filed: June 12, 2002	:	
Attorney Docket No. 16869B-043000US	:	

This is a decision on the petition under 37 CFR 1.137(a), filed February 27, 2004, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition is **GRANTED**.

The above-identified application was held abandoned for failure to timely reply to the Notice to File Corrected Application Papers, mailed July 17, 2002. This Notice set a period for reply of two months to submit a substitute specification with correct line spacing. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. The above-identified application became abandoned on September 18, 2002. A Notice of Abandonment was mailed on January 29, 2004. The Notice of Abandonment indicated that no reply had been received.

Applicant contends that he did timely file a reply in response to the Notice to File Corrected Application Papers in the form of an amendment, changing the line spacing of pages 13 - 15 of the specification. Furthermore, a review of the application file reveals that applicant filed this reply on August 12, 2002.

In view thereof, **the holding of abandonment is withdrawn**.

Given the basis for granting this decision, the petition fee has been refunded to Deposit Account No. 20-1430.

Applicant will be informed if his August 12, 2002 amendment is not deemed to be a sufficient reply to the Notice to File Corrected Application Papers.

The application file is being forwarded to the Office of Initial Patent Examination for completion of pre-examination processing.

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

Cliff by

Cliff Congo
Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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05052006

YOUNG & THOMPSON
745 SOUTH 23RD STREET
2ND FLOOR
ARLINGTON VA 22202

MAY 15 2006

In re Application of Toshihiro IIZUKA et al. Application No. 10/170,813 Filed: June 13, 2002 Attorney Docket No. NEKS 19.780	: : : : :	DECISION ON PETITION

This is a decision on the petition filed November 17, 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 rejection was mailed on November 16, 2004, setting a three-month period of response. A Notice of Abandonment was mailed September 21, 2005.

Petitioner asserts that a Petition for a Two-Month Extension of Time, a Notice of Appeal and the corresponding fees were timely filed on April 18, 2005 as evidenced by the Petition for a Two-Month Extension of Time and the Notice of Appeal viewable under the "image file wrapper" function of PAIR.

The review of the application file reveals that the Petition for a Two-Month Extension of Time and the Notice of Appeal were received but not notice by the examiner at the time the application was held abandoned. A review of the PALM database reveals that the Two-Month Extension of Time fee and the Notice of Appeal fee was paid on April 27, 2005. Consequently, the application is not abandoned in fact.

For the above reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. Inconvenience to petitioner is regretted.

The application file is being forwarded to the technical support staff for processing the later filed Request for Continued Examination and the Petition for a Five Month Extension of Time, each filed on November 17, 2005. From there, it will be returned to the examiner for further prosecution.

Inquiries regarding this decision should be directed to Jose' G. Dees at 571-272-1569.

Sharon A. Gibson, Director
Technology Center 2800
Semiconductor, Electrical and Optical
Systems and Components

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THOMAS J. DURLING
DRINKER BIDDLE & REATH LLP
ONE LOGAN SQUARE
18th AND CHERRY STREETS
PHILADELPHIA, PA 19103-6996

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NOV 0 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Burgio, Joseph T.	:	
Application No. 10/170,837	:	ON PETITION
Filed: June 12, 2002	:	
Attorney Docket No. 8852-7 (151583)	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 27, 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 the Issue Fee Transmittal, the issue fee and the publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

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

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

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

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MAY 17 2006

OFFICE OF PETITIONS

In re Application of	:	
Alan Gous et al	:	
Application No. 10/170,848	:	DECISION ON PETITION
Filed: June 11, 2002	:	TO WITHDRAW
Attorney Docket No. 5646P001	:	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 26, 2004.[1]

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

A review of the file record indicates that the previously appointed power of attorney has been revoked by the assignee. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

This application is being referred to Technology Center AU 2152.

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: SCHWEGMAN LUNDBERG WOESSNER & KLUTH
P.O. BOX 2938
MINNEAPOLIS, MN 55402

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[1] The instant request was only recently brought to the attention of the deciding official. The Office sincerely apologizes for the delay in responding to the instant petition and the inconvenience caused petitioner by this delay.

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NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

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AUG 1 8 2004
OFFICE OF PETITIONS

In re Application of
Lawrence Sorgi
Application No. 10/170,893
Filed: June 13, 2002
Attorney Docket No. WSM-00201

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed June 14, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen months publication country on June 13, 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 Power of Attorney filed with the instant petition has been accepted and recorded.

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 14, 2004 was mailed on July 6, 2004.

It is noted that petitioner filed a Notice of Appeal on June 14, 2004; however, the period for filing an appeal brief in triplicate (accompanied by the fee required by 37 CFR 1.17(c)), is restarted to run two (2) months from the mailing date of this decision. Failure to timely reply will again result in the abandonment of this application.

Any inquiries concerning this decision may be directed to Retta Williams at (703) 306-5594.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

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JUN 22 2006

OFFICE OF PETITIONS

In re Application of :
Lawrence Sorgi :
Application No.: 10/170,893 : ON PETITION
Filed: June 13, 2002 :
Attorney Docket No: WSM-00201 :

This is in response to the petition under 37 CFR 1.137(b) filed December 2, 2005.

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

This application became abandoned for failure to respond in a timely manner to the final Office action mailed March 25, 2005. The notice set a shortened statutory period for reply of three-months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). No response was received within the allowed period, and the application became abandoned on June 26, 2005. A Notice of Abandonment was mailed on October 20, 2005.

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

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

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

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

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

The instant petition does not satisfy the requirements of item (1) above.

Examiner Rashmi Sharma of Technology Center 3600, GAU 3651 has determined that the amendment filed December 2, 2005, does not place the application in condition for allowance. Item (1) above has not been satisfied because of the failure to file a proper reply to the final Office action. The petition is dismissed, accordingly. The renewed petition must be accompanied by a proper response to the final Office action before the petition will be considered grantable.

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

By mail:

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

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON DC 20004-2128

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OFFICE OF PETITIONS

In re Application of

Lawrence Sorgi :

Application No. 10/170,893

: DECISION ON PETITION

Filed: June 13, 2002

:

Attorney Docket No. WSM-00201

This is a decision on the renewed petition under 37 CFR 1.137(b), filed September 21, 2006, to revive the above-identified application.

The renewed petition is **GRANTED**.

The above-cited application became abandoned for failure to file a proper reply in a timely manner to the final Office action mailed March 25, 2005, which set a shortened statutory period for reply of three (3) months from its mailing date. The application became abandoned on June 26, 2005. A Notice of Abandonment was mailed on October 20, 2005. A petition under 37 CFR 1.137(b) was first filed on December 2, 2005, and dismissed by a decision mailed June 22, 2006.

Examiner Sharma has determined that the amendment filed September 21, 2006, places the application in condition for allowance.

The application is being forwarded to Technology Center 3600, GAU 3651 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DANIEL E. FISHER, FISHER ECHNOLOGY LAW LLC.
8221 OLD COURTHOUSE ROAD
SUITE 104
VIENNA VA 22182

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JAN 1 7 2008

OFFICE OF PETITIONS

In re Application of	:	
BOSIERS et al.	:	DECISION ON PETITION
Application No. 10/170,905	:	
Filed: 06/13/2002	:	
Attorney Docket No. DALSA-0030	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 21, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to pay the issue and publication fees as required by the Notice of Allowance and Fee(s) Due mailed on July 12, 2007, which set a three (3) month statutory period for reply. Accordingly, the application became abandoned on October 13, 2007. A Notice of Abandonment was mailed on November 6, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue and publication fees; (2) the petition fee; and (3) a proper statement of unintentional delay.

This matter 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 (571) 272-4200.

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
Washington, D.C. 20231
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Paper No. 7

FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

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MAR 13 2003

OFFICE OF PETITIONS

In re Application of	:
Abid L. Khan	:
Application No. 10/170,920	: DECISION GRANTING PETITION
Filed: June 12, 2002	: UNDER 37 CFR 1.137(f)
Attorney Docket No. 19753-06368	:

This is a decision on the petition, filed January 28, 2003, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

The instant nonprovisional application is the subject of an application filed in a foreign country on August 28, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

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

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Corrected Filing Receipt which sets forth the projected publication date of June 19, 2003 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.

This application is being forwarded to Technology Center Art Unit 2859 for appropriate action in due course on the reply received February 19, 2003 to the nonfinal Office action of October 7, 2002.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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CHRISTOPHER & WEISBERG, P.A.
200 EAST LAS OLAS BOULEVARD
SUITE 2040
FORT LAUDERDALE, FL 33301

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MAY 0 4 2006

OFFICE OF PETITIONS

In re Application of Vincent Risalvato Application No. 10/170,931 Filed: June 13, 2002 Attorney Docket No. 1014-2U	: : : : :	DECISION ON REQUEST 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 27, 2006.

The request is **NOT APPROVED**.

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

A review of the record shows that Alan M. Weisberg, signed the request on behalf of all attorneys or agents of record who are associated with Customer No. 31292. However, Jason H. Crush currently has power of attorney in this application, but is not listed as an attorney or agent under Customer No. 31292. Since he was omitted, it is unclear whether or not Jason H. Crush should be withdrawn or retain power.

There is an outstanding Office action mailed December 7, 2005 that requires a reply from the applicant.

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 Andrea Smith at 571-272- 3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee: Amelia Au

cc: Mr. Vincent Risalvato
Rivar Technologies, Inc.
13514 Tufts Place
Tampa, FL 33525-2947

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OFFICE OF PETITIONS

In re Application of	:	
Alexander Medvinsky et al	:	
Application No. 10/170,951	:	ON PETITION
Filed: June 12, 2002	:	
Attorney Docket No. 018926-007700US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 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 non-final Office action mailed January 11, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 12, 2007.

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

RICHMOND, HITCHCOCK, FISH & DOLLAR
P.O. Box 2443
Bartlesville OK 74005

COPY MAILED
MAR 30 2004
OFFICE OF PETITIONS

In re Application of
Genn W. Dodwell et al.
Application No. 10/170,953
Filed: June 13, 2002
Attorney Docket No.: 33909US
Title: DESULFURIZATION AND NOVEL SORBENT FOR THE SAME

DECISION ON PETITION

This is a decision on the petition under 37 CFR § 1.137(b)[1], filed March 10, 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 September 3, 2003, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on December 4, 2003.

With the instant petition, the petitioner has met the requirements to revive the above-identified application, pursuant to 37 CFR 1.137(b). Petitioner submitted the petition fee, the required reply in the form of the filing of an amendment, the submission of a terminal disclaimer to obviate a double patent rejection, and the proper statement of unintentional delay.

After this decision is mailed, the application will be forwarded to Technology Center 1700 for further processing.

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

Telephone inquiries concerning *this decision* should be directed to the undersigned at (703) 305-0011.

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

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

Robert D. Shedd, Patent Operations
THOMSON Licensing LLC
P.O. Box 5312
Princeton, NJ 08543-5312

Mail Date: 04/21/2010

Applicant	: Mark Francis Rumreich	: DECISION ON REQUEST FOR
Patent Number	: 7599604	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/170,955	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/13/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1303** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DIW 09-02

Paper No. 4

GARY CARY WARE & FREIDENRICH LLP
1755 EMBARCADERO ROAD
PALO ALTO CA 94303-3340

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SEP 1 6 2002

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Kay Perkins Emerson :
Application No. 10/170,956 :
Filed: 12 June, 2002 :
Atty's Docket No. 2103271-900221 :

Receipt is acknowledged of the paper filed on 19 August, 2002, captioned "Response" concerning the U.S. Patent and Trademark Office's handling of an application assigned Application No. 10/170,956. The response is treated as a petition under 37 CFR 1.53 to accord the application a filing date of 12 June, 2002, with Figures 3E and 3F as part of the original disclosure.

The petition is dismissed.

The application was filed on 12 June, 2002. However, on 16 July, 2002, Initial Patent Examination Division mailed a Notice of Omitted Item(s) in a Nonprovisional Application stating that the application had been accorded a filing date of 12 June, 2002, and advising applicant that Figures 3E and 3F described in the specification appeared to have been omitted.

The mailing of a "Notice of Omitted Items" permits the applicant to either: (1) promptly establish prior receipt in the PTO of the drawing(s) at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing drawings were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted drawings in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted drawing(s) with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such drawing(s) and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the "Notice of

Omitted Items" (37 CFR 1.181(f)).

In this case, petitioners neither assert that the missing figures were deposited on 12 June, 2002, nor request the 19 August, 2002 (the date the missing page was supplied) filing date. Rather, petitioners simply state that Figures 3E and 3F do not constitute new matter.

Accordingly, the petition is inappropriate and is subject to dismissal. As the petition was not due to an error on the part of the USPTO, the petition fee will not be refunded.

Petitioners should file the sheet of drawings containing Figures 3E and 3F as a preliminary amendment. Amendments to the specification may be entered by the primary examiner without petition so long as the amendment contains no new matter.[1]

The application will be processed and examined using only the application papers filed on 12 June, 2002. The one (1) sheet of drawings containing Figures 3E and 3F filed on 19 August, 2002, will not be used for processing, but will be retained in the application file.

In view of the above, the "Notice" was properly mailed and will not be withdrawn. The present petition was not necessitated by any error on the part of the Office and the $130.00 petition was required upon filing of the petition. Thus, the $130.00 petition fee will be assessed to counsel's deposit account, No. 07-1896.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of 12 June, 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

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[1] 37 CFR 1.121(b).

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Alexandria, VA 22313-1450
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Paper No.

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

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MAY 0 6 2004

OFFICE OF PETITIONS

In re Application of
Mitchell B. Freeman, et al.
Application No. 10/170,977
Filed: June 12, 2002
Attorney Docket No. 6139P001

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed April 27, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on June 12, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of August 12, 2004 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (703) 305-9220.

This application is being forwarded to Technology Center Art Unit 2662 for examination in due course.

Sherry D. Brinkley

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	7,169,711 B1
DATED	:	January 30, 2007
INVENTOR(S)	:	Lyons, 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 596 days

Delete the phrase "by 596 days" and insert – by 408 days--

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SEP 17 2007

OFFICE OF PETITIONS

FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE WI 53202-5306

In re Patent No. 7,169,711	:
Issued: January 30, 2007	: LETTER REGARDING PTA and
Application No. 10/170,984	: NOTICE OF INTENT TO ISSUE
Filed: June 13, 2002	: CERTIFICATE OF CORRECTION
Atty. Dkt. No.: 039153-0623	:
(H0131)	:

This letter is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT," filed December 15, 2006. The Office thanks patentees for their good faith and candor in bringing this to our attention.

The above-identified application matured into U.S. Patent No. 7,169,711 on January 30, 2007. The patent issued with a patent term adjustment (PTA) of 596 days. Prior to issuance of the patent, applicants indicated that the pre-allowance adjustment of 484 days indicated in the Determination of Patent Term Adjustment mailed September 19, 2006 appeared to be longer than appropriate.

Patentees are correct in that the determination set forth in the Determination of Patent Term Adjustment mailed September 19, 2006 contained an error.

The adjustment of 596 days for Office delays is deemed accurate. The Office, however, failed to reduce the adjustment 188 days in accordance with 37 CFR 1.704(c)(7) in connection with the appeal brief filed September 7, 2005. The reduction began March 4, 2005, the day after the date that a reply (appeal brief) having an omission was filed, and ended September 7, 2005, the date the reply (corrected appeal brief) correcting the omission was filed.

Accordingly, at the time of issuance, the patent was entitled to an adjustment of 408 days.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 408 days.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery A Fries

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

CC: Draft Certificate of Correction

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BARNES & THORNBURG
11 SOUTH MERIDIAN
INDIANAPOLIS IN 46204

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SEP 22 2005

OFFICE OF PETITIONS

In re Application of
Kwon
Application No. 10/170,997
Filed: June 12, 2002
Attorney Docket No. 29920-77243

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 3, 2005 (certificate of mailing date June 1, 2005), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the 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.

The issue of cancelling benefit claims is properly decided by the examiner of record. MPEP 201.11 III G. In addition, it is noted that this application is under final rejection. The examiner of record has indicated that entry of the claim of benefit to application no. 08/122,796 would overcome the rejection of record under 35 U.S.C. 102(b) and would be entered. See attached copy of Advisory Action. Thus the granting of this petition is appropriate. Petitioner should be aware that the absolute latest date to timely respond to the final Office action, after purchasing a full 3 month extension of time, is October 11, 2005.

Any inquiries concerning this decision may be directed to Petitions Attorney at (571) 272-3230. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1644 for appropriate action on the amendment filed June 3, 2005 (certificate of mailing date June 1, 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

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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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

SWEETING, Michael
Application No. 10/171,009
Filed: June 11, 2002
Attorney Docket No. **02-1067**

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 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 Jeffrey Ingermann 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 signing inventor at the first copied address below until otherwise properly notified by the applicant.

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

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **MICHAEL SWEETING**
INNES HOUSE
10 AYLINE LANE, ALDERSHOT, HAMPSHIRE
GULL 3LZ, ENGLAND
UNITED KINGDOM

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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INNOVATION DIVISION
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK, NY 10022

Mail Date: 04/21/2010

Applicant	: Michael Sweeting	: DECISION ON REQUEST FOR
Patent Number	: 7574395	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/171,009	: OF WYETH
Filed	: 06/11/2002	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

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INNOVATION DIVISION
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK, NY 10022

Mail Date: 05/18/2010

Applicant : Michael Sweeting
Patent Number : 7574395
Issue Date : 08/11/2009
Application No : 10/171,009
Filed : 06/11/2002

: NOTICE CONCERNING IMPROPER
: DISMISSAL OF THE REQUEST
: FOR RECALCULATION OF
: PATENT TERM ADJUSTMENT
: IN VIEW OF WYETH

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO mistakenly dismissed a small number of requests as ineligible. The dismissals involve requests that were filed on February 9-12, 2010, for patents that were granted on August 11, 2009. Any request that was filed on February 8, 2010 was properly deemed eligible for patent term adjustment (PTA) and was recalculated.

Patents meeting the above criteria were eligible because the USPTO was closed February 8-11, 2010, due to a snowstorm. See Closing of the United States Patent and Trademark Office from Monday February, 8, 2010, through Thursday, February 11, 2010, 1352 *Off. Gaz. Pat. Office* 146 (March 16, 2010). The Office considered each day from Monday, February 8, 2010, through Thursday, February 11, 2010, to be a "Federal holiday within the District of Columbia" under 35 U.S.C. § 21(b) and 37 CFR 1.6, 1.7, 1.9, 2.2(d), 2.195 and 2.196. Any actions that were due from Monday, February, 8, 2010, through Thursday, February 11, 2010, (or the preceding Saturday (February 6, 2010) or Sunday (February 7, 2010)) will be considered timely if the action was taken on the next succeeding business day on which the USPTO was open, which was February 12, 2010.

This notice **VACATES** the previous mailed decision in the patented file that deemed patentee ineligible for the request for recalculation. Patentee's request for recalculation is GRANTED.

The patent term adjustment has been determined to be **2130** 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** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

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

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

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WALL & TONG, LLP/
ALCATEL-LUCENT USA INC.
595 SHREWSBURY AVENUE
SHREWSBURY NJ 07702

COPY MAILED

MAR 23 2009

OFFICE OF PETITIONS

In re Application of :
Bhattacharya, et al. : DECISION ON PETITION
Application No. 10/171,026 :
Filed: June 13, 2002 :
Attorney Docket No. Bhattacharya 4-3-3-8-5 :
(L

This is a decision on the petition filed September 29, 2008 under 37 CFR 1.183 to waive the requirements of 37 CFR 1.131 that all the originally signing inventors also execute the oath or declaration of prior invention. Petitioners have submitted $200.00 in connection with this matter. As a petition under 37 CFR 1.183 is currently $400.00, the remaining fee due, $200.00, has been charged to petitioners' deposit account, as authorized.

The petitions are **DISMISSED**.

Petitioners are given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR § 1.183," and should only address the deficiencies noted below, except that the reply may include an oath or declaration signed by all of the inventors. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

The petition requesting waiver under 37 CFR 1.183 of the requirement in 37 CFR 1.131 cannot be granted at this time.

Petitioners assert that, while all of the named inventors contributed to the conception of the claimed invention which is under rejection, only inventors Bhattacharya and Pratap are available to execute the attached declaration under 37 CFR 1.131 in support of establishing conception of the claimed invention prior to June 3, 1997.

In accordance with MPEP 715.04, "[w]here one or more of the named inventors of the subject matter of the rejected claim(s) (who had originally signed the oath or declaration for patent application under 37 CFR 1.63) is now unavailable to sign an affidavit or declaration under 37 CFR 1.131, the affidavit or declaration under 37 CFR 1.131 may be signed by the remaining joint inventors provided a petition under 37 CFR 1.183 requesting waiver of the signature of the unavailable inventor be submitted with the affidavit or declaration under 37 CFR 1.131. Proof

that the non-signing inventor is unavailable or cannot be found similar to the proof required for a petition under 37 CFR 1.47 must be submitted with the petition under 37 CFR 1.183 (see MPEP § 409.03(d)).

As to inventor Quan Li, petitioners state the inventor is no longer employed by assignee and that a letter mailed to the inventor at the inventor's last known address via USPS was returned to sender as "Refused (Unknown)." Petitioners have provided a copy of the search results for the inventor from online white pages. Petitioners state that a phone call to the phone number provided in the search could not be completed.

As to inventor Serafim Maroulis, petitioners state the inventor is no longer employed by assignee and that a letter mailed to the inventor at the inventor's last known address via USPS was returned as undeliverable, unable to forward. Petitioners further state that an online white pages search yielded no matching results for the inventor.

As to inventor Harvey S. Schultz, petitioners state the inventor is no longer employed by assignee and that a letter mailed to the inventor at the inventor's last known address via USPS was returned as undeliverable. Petitioners further state that an online white pages search yielded no matching results for the inventor.

The petition is accompanied by copies of the various mailings that were directed to the non-signing inventors. Petitioners also submitted a copy of online search results for inventor Quan Li.

Petitioners have not demonstrated that diligent efforts were expended trying to locate the non-signing inventors. Petitioners should, at the very least, conduct a search of the regional or national registry(s). The results of such search should be made in any future petition for reconsideration. See, MPEP 409.03(d). Additionally, petitioners should state whether he has access to inventors' personnel records and if these records reveal information concerning current addresses, forwarding addresses, or addresses of the nearest living relatives. This sort of ultimatum lends support to a finding of inability to locate a named inventor. If all other attempts to locate or reach the inventor, e.g., through personnel records, co-workers, E-mail, the Internet or the telephone, etc., continue to fail, then applicants will have established that the inventors cannot be reached after diligent effort or has refused to sign the declaration. **The statements of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein and should be accompanied by documentary evidence in support of the statement of facts.** It is important that the forthcoming communication contain statements of fact as opposed to conclusions.

Further, a cursory review of the Lexis®.com EZFIND Combined Person Locator Nationwide database revealed that at least two of the non-signing inventors may have more recently resided at addresses other than those set forth as last known addresses by petitioners. See, enclosed.

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

By Mail: Mail Stop PETITION

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By Hand: U. S. Patent and Trademark Office
Customer Window, Mail Stop PETITIONS
401 Dulany Street
Alexandria, VA 22314

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

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

/ALESIA M. BROWN/
Alesia M. Brown
Petitions Attorney
Office of Petitions

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1 - 1 of 1

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Search: Public Records > Locate a Person (Nationwide) Search > Search Results

Terms: first-name(**quan**) last-name(**li**) street address(**linda lane**) city (**edison**) state(**NJ**)... (Edit Search | New Search)

Select for Delivery or View Checked

No.	Full Name	Address	Phone	SSN
	View Source Documents	Click for Additional Searches	Phone Search	
1.	LI, QUAN LEI, QUAN (DOB: 12/1973) (Age: 35)	18 DITZEL FARM RD SCOTCH PLAINS, NJ 07076-2946 UNION COUNTY (08/2007-Current)	✓ 908-288-0316 HUANG YUANPENG (08/2007-Current)	146-96-XXXX (NJ:1994-1996)
		168 LINDA LN 168 EDISON, NJ 08820-4505 MIDDLESEX COUNTY (06/1998-12/2008)	908-222-1362 CARIDE SOFIA (Current Listing Name)	

Key
⚠ High Risk Indicator. These symbols may prompt you to investigate further.
⚑ Moderate Risk Indicator. These symbols may prompt you to investigate further.
⚑ General Information Indicator. These symbols inform you that additional information is provided.
✓ The most recent telephone listing as reported by the EDA source.

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Terms: first-name(**quan**) last-name(**li**) street address(**linda lane**) city(**edison**) state (**NJ**)... (Edit Search | New Search)

Date/Time: Monday, March 16, 2009 2:44 PM

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Riag.Framework.Web v1.0.2998.13258

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1 - 2 of 2

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Terms: first-name(**harvey**) last-name(**schultz**) street address(**ivanhoe dr**) city(**manalapan**)... (Edit Search | New Search)

Select for Delivery or View Checked

No.	Full Name	Address	Phone	SSN
	View Source Documents	Click for Additional Searches	Phone Search	
1.	SCHULTZ, HARVEY S SCHULTZ, HARVEY (DOB: 09/1946) (Age: 62)	11302 MORNING GATE DR ROCKVILLE, MD 20852-3126 MONTGOMERY COUNTY (04/2006-Current)	240-863-8798 Phone & ZIP code conflict	097-38-XXXX (NY:1963-1965)
		9 IVANHOE DR MANALAPAN, NJ 07726-1713 MONMOUTH COUNTY (06/1982-02/2008)	732-536-0193 Phone may be disconnected	
		9 IVANHOE DR ENGLISHTOWN, NJ 07726-1713 MONMOUTH COUNTY (06/1982-03/2006)	732-536-0193 Phone may be disconnected	
2.	SCHULTZ, H	9 IVANHOE DR ENGLISHTOWN, NJ 07726-1713 MONMOUTH COUNTY (10/2002-12/2005)		

Key
High Risk Indicator. These symbols may prompt you to investigate further.
Moderate Risk Indicator. These symbols may prompt you to investigate further.
General Information Indicator. These symbols inform you that additional information is provided.
✓ The most recent telephone listing as reported by the EDA source.

Permissible Use: **DPPA - Government Agency**
GLBA - Legal Compliance
(Change)

Search: Public Records > Locate a Person (Nationwide) Search > Search Results

Terms: first-name(**harvey**) last-name(**schultz**) street address(**ivanhoe dr**) city (**manalapan**)... (Edit Search | New Search)

Date/Time: Monday, March 16, 2009 2:47 PM

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ALCATEL-LUCENT USA INC.
595 SHREWSBURY AVENUE
SHREWSBURY NJ 07702

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APR 12 2010

OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION
Bhattacharya, et al.	:	
Application No. 10/171,026	:	
Filed: June 13, 2002	:	
Attorney Docket No. Bhattacharya 4-3-3-8-5 (L	:	

This is a decision on the renewed petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.131, filed May 21, 2009.

The instant request for reconsideration asserts that consideration under 37 CFR 1.183 to waive the requirements of 37 CFR 1.131 is no longer necessary given that the joint inventors have each executed a declaration under 37 CFR 1.131.

In view thereof, the petition is **DISMISSED AS MOOT**.

This application is being forwarded to Group Art Unit 2462 for further processing.

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

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE 2/25/09 Paper No.: —

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/171041 Patent No.: 6800654 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

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: _____

/Joseph K. McKane/ — **SPE**

1626 — **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : January 14, 2010

TO SPE OF : ART UNIT 1626 - SPE Joseph McKane.

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/171,041 Patent No.: 6,800,654 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)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Antonio Johnson

In the COCIN dated 10-14-2009, the applicant is requesting another change to structure at Column 26, lines 42-53. Should the change be approved? If so a cofc will be prepared to supersede the cofc issued April 14, 2009.

Certificates of Correction Branch

(571)272-0483

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: _____

/Joseph K. McKane/ SPE, Art Unit 1626

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LAHIVE & COCKFIELD, LLP
ONE POST OFFICE SQUARE
BOSTON MA 02109-2127

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OFFICE OF PETITIONS

In re Application of
Uenodai et al.
Application No. 10/171,107
Filed: June 12 2002
Attorney Docket Number: SATW-004
Title of Invention: Control Device For Fuel Cell Vehicle

ON PETITION

This is a decision on the petition filed September 5, 2006, 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 March 27, 2006. 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 June 28, 2006. A Notice of Abandonment was mailed on July 28, 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 no. 12-0080 will be charged the $1400 issue fee and $1500 petition fee.

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

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

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OFFICE OF PETITIONS

In re Application of	:	
Yoshimasa Isozaki	:	
Application No. 10/171,110	:	ON PETITION
Filed: June 12, 2002	:	
Attorney Docket No. 2552-000011	:	

This is a decision on the petition, filed August 1, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 8, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2837 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 01052005

JAN 7 2005

QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE, SUITE 2040
MILWAUKEE WI 53202-4497

In re Application of:	:	
Paliwal *et al*	:	NOTICE OF WITHDRAWAL
Application No. 10/171,137	:	FROM ISSUE
Filed: June 12, 2002	:	UNDER 37 CFR § 1.313(b)
Attorney Docket No. 960296.98679	:	

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 inquires should be directed to Ed Glick, Supervisory Patent Examiner of art unit 2882, at (571) 272-2490.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Janice Falcone

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

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Paper No. 5

Stephen H. Docter
McDonnell Boehnen Hulbert & Berghoff
32nd Floor
300 S. Wacker Drive
Chicago, IL 60606

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OFFICE OF PETITIONS

In re Application of Pulley, et al. Application No. 10/171,182 Filed: June 12, 2002 Atty. Dkt. No.: 01-1664-C	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

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

The application became abandoned September 24, 2002 for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application mailed July 23, 2002. The Notice set a two (2) month shortened statutory period for reply. No petition for extension of time in accordance with 37 CFR 1.136(a) was timely filed. This decision precedes Notice of Abandonment.

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

Telephone inquiries regarding the content of this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions

SPE J. Wilson

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/2/06

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/171,182 Patent No.: 6969709

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

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

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

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

Thank You For Your Assistance

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

Note your decision on the appropriate box.

- [x] **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

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JOSEPH S. TRIPOLI
THOMSON MULTIMEDIA LICENSING INC.
2 INDEPENDENCE WAY
P.O. BOX 5312
PRINCETON NJ 08543-5312

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NOV 05 2007

OFFICE OF PETITIONS

In re Application of :
Mike Arthur Derrenberger :
Application No. 10/171,198 : DECISION ON PETITION
Filed: June 13, 2002 :
Attorney Docket No. PU20263 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 5, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed December 19, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 20, 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 election, (2) the petition fee of $1500, and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2621 for appropriate action by the Examiner in the normal course of business on the reply received July 5, 2007.

April M. Wise
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JOSEPH S. TRIPOLI
THOMSON MULTIMEDIA LICENSING INC.
2 INDEPENDENCE WAY
P.O. BOX 5312
PRINCETON, NJ 08543-5312

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JUN 10 2010

OFFICE OF PETITIONS

In re Application of	:	
Mike Arthur Derrenberger	:	
Application No. 10/171,198	:	DECISION ON PETITION
Filed: June 13, 2002	:	
Attorney Docket No. PU020263	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 19, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to file a reply within the meaning of 37 CFR 1.113 to the final Office action of June 27, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is September 28, 2008. A Notice of Abandonment was mailed January 22, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and fee of $540, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

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

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 Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center AU 1655 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: JOEL FOGELSON
THOMSON LICENSING S.A.
TWO INDEPENDENCE WAY
SUITE 200
PRINCETON, NJ 08540

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Paper No. 4

IAN F. BURNS & ASSOCIATES
1575 DELUCCHI LANE, SUITE 222
RENO NV 89502

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OFFICE OF PETITIONS

In re Application of	:	
Lawrence J. Torango	:	
Application No. 10/171,205	:	DECISION GRANTING PETITION
Filed: 11 June, 2002	:	
Atty's Docket No. 729.502	:	

This is a decision on the petition filed on 3 September, 2002, requesting that the above-identified application, including Figure 2, be accorded a filing date of 2 May, 2001. The application was recently forwarded to this office for consideration of the petition.

On 11 June, 2002, the application was filed.

On 31 July, 2002, Initial Patent Examination Division mailed a Notice of Omitted Item(s) in a Provisional Application stating that the application had been accorded a filing date of 11 June, 2002, but that Figure 2 described in the specification appeared to have been omitted.

In response, on 3 September, 2002, petitioners filed, *inter alia*, (1) sheet of drawings containing Figure 2 and the present petition were submitted. Petitioners assert that Figure 2 was filed with the other application papers on 11 June, 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 11 June, 2002, containing the above-identified application number, and identifies the application by inventor's name, invention title, and attorney docket number, and acknowledges receipt, *inter alia*, of Drawings - 19 sheets. Petitioners request that the application, including the drawings containing Figure 2, be accorded a filing date of 11 June, 2002.

A review of the record reveals that 18 sheets of drawings, containing Figures 1, 3-8, 8A, and 9-19 are located among the application papers deposited on 11 June, 2002. However, the evidence is convincing that the application papers deposited on 11 June, 2002, included 19 sheets of drawings and that the sheet of drawings containing Figure 2 was subsequently misplaced in the Office. Therefore, the application, including the one (1) sheet of drawing containing Figure 2 as described in the specification, is entitled to a filing date of 11 June, 2002.

The "Notice", mailed on 31 July, 2002, is vacated.

In view of the above, the petition is granted. The petition fee will be credited to counsel's deposit account, No. 50-0913, as authorized in the petition.

The application will be processed and examined using the application papers filed on 11 June, 2002, and the copy of Figure 2 of the drawings supplied on 3 September, 2002. The copies of the other application papers supplied with the present petition 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 11 June, 2002, using the application papers filed on 11 June, 2002, and the one (1) sheet of drawing containing Figure 2, supplied on 3 September, 2002, and for an indication on the bib-data sheet that 19 sheets of drawings were present on filing.

Telephone inquires should be directed to the undersigned at 703 308-6918.

D Wood

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

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Paper No. 10

Hilmar L. Fricke
E. I. du Pont de Nemours & Co.
Legal/Patent Records Center
Barley Mill Plaza 25/1128
Wilmington DE 19805

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OFFICE OF PETITIONS

In re Application of
Carmen Flosbach, Kalus Wissing, and
Thomas Fey
Application No. 10/171,206
Filed: June 13, 2002
Attorney Docket Number: FA1050 US NA
Title: PROCESS FOR MULTILAYER
COATING OF SUBSTRATES

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

This is a decision on the petition filed March 18, 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 in a timely manner to the Notice of Missing Parts (notice), mailed July 18, 2002, which set a shortened statutory period for reply of two (2) months. The notice set forth that an executed oath or declaration, and the fee associated with the late filing of an oath or declaration would be required. 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 October 19, 2002. A Notice of Abandonment was mailed January 26, 2004.

With this petition, petitioner submitted the petition fee, a declaration, the fee associated with the late filing of an oath or declaration, and the proper statement of unintentional delay.

---

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.

Petitioner has submitted a declaration which has been signed by each of the three joint inventors. An Application Data Sheet (ADS) has been located in the file.
MPEP 601 sets forth that if an ADS is used, data supplied in the application data sheet need not be provided elsewhere in the application except that the citizenship of each inventor must be provided in the oath or declaration. The declaration contains the name and citizenship of each of the six inventors, pursuant to MPEP 601.

Petitioner has met requirements (2) and (3) above. Requirement (4) does not apply.

The first requirement above has not been satisfied because Petitioner did not submit the required reply to the Office action. The required reply is the reply sufficient to have avoided abandonment, had such reply been timely filed[2]. The submitted declaration is not compliant with 28 U.S.C. 1746, in that none of the three joint inventors affixed a date underneath his/her signature. Therefore, it cannot be accepted.

Therefore, the petition must be **DISMISSED**.

On renewed petition, petitioner must submit the required reply, i.e. a properly executed declaration.

Any response to 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 response should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

The reply to this letter may be submitted by mail[3], hand-delivery[4], or facsimile[5].

The reply should display "Please deliver to Paul Shanoski, c/o Office of Petitions" in a prominent manner. The Petitioner may wish to consider telephoning the undersigned at the number provided below to confirm that the documents were delivered to the undersigned. Please note that the delivery process within the PTO can take as much as three weeks.

The application file will be retained in the Office of Petitions for two (2) months.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0011.

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

---

2 See M.P.E.P. 711.03(c).

3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

4 Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202.

5 (703) 872-9306 - please note this is a central facsimile number, and as such, there will be a delay in the delivery of the facsimile to the undersigned.

UNITED STATES 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

Hilmar L. Fricke
E. I. du Pont de Nemours & Co.
Legal/Patent Records Center
Barley Mill Plaza 25/1128
Wilmington DE 19805

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JUL 0 2 2004
OFFICE OF PETITIONS

In re Application of
Carmen Flosbach, Kalus Wissing, and
Thomas Fey
Application No. 10/171,206
Filed: June 13, 2002
Attorney Docket Number: FA1050 US NA
Title: PROCESS FOR MULTILAYER
COATING OF SUBSTRATES

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

This is a decision on the renewed petition filed June 1, 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 in a timely manner to the Notice of Missing Parts (notice), mailed July 18, 2002, which set a shortened statutory period for reply of two (2) months. The notice set forth that an executed oath or declaration, and the fee associated with the late filing of an oath or declaration would be required. 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 October 19, 2002. A Notice of Abandonment was mailed January 26, 2004.

With the original petition, submitted on March 18, 2004, petitioner submitted the petition fee, a declaration, the fee associated with the late filing of an oath or declaration, and the proper statement of unintentional delay.

---

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.

The original petition was dismissed via the mailing of a decision on March 30, 2004 for failure to include the required reply, as the concurrently submitted declaration was not properly executed by the joint inventors.

With the renewed petition, this deficiency has been rectified.

As such, the petition is **GRANTED.**

Receipt of the concurrently submitted Information Disclosure Statement is acknowledged.

After this decision is mailed, the application will be forwarded to Technology Center 1700 for further processing.

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
WWW.USPTO.GOV

Paper No. None

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

COPY MAILED

MAR 12 2007

OFFICE OF PETITIONS

In re Application of Todd A. Schelling Application No. 10/171,210 Filed: June 11, 2002 Attorney Docket No.: 42390P14265 Title: SYSTEM AND METHOD TO FILTER PROCESSORS BY HEALTH DURING EARLY FIRMWARE FOR SPLIT RECOVERY ARCHITECTURE	DECISION ON PETITION UNDER 37 C.F.R. §1.137(B)

This is a decision on the petition filed November 13, 2006, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed February 14, 2006, which set a shortened statutory period for

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

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 15, 2006. A notice of abandonment was mailed on September 14, 2006.

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

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

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that 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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

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JUL 14 2003

OFFICE OF PETITIONS

Shlesinger, Fitzsimmons & Shlesinger
Suite 1323
183 East Main Street
Rochester, NY 14604

In re Application of
Locati
Application No. 10/171,220
Filed: August 14, 2002
For: PROCESS AND PLANT FOR PRODUCING PAPER OR PAPERBOARD FROM WASTE PAPER

ON PETITION

The is a decision on the "PETITION TO THE COMMISSIONER UNDER 37 CFR 1.181" filed August 14, 2002. This petition is being treated under 37 CFR 1.53(e) to have the instant application converted to an application filed under 37 CFR 1.53(b) and be accorded a filing date of June 4, 2002.

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

The instant application was filed under former 37 CFR 1.63 File Wrapper Continuing Procedure. Effective December 1, 1997, 37 CFR 1.52 was deleted. *See*, 1203 O.G. 63, October 21, 1997. A continuation or divisional application filed under former 37 CFR 1.62 on or after December 1, 1997 will be treated as an application filed under 37 CFR 1.53(b) unless the application is a utility or plant application filed on or after May 29, 2000, in which case it will be treated as a request for continued examination (RCE) under 37 CFR 1.114. *See*, MPEP 706.07(h)(¶IV). If the application filed on or after December 1, 1997 under former 37 CFR 1.62 is a continuation-in-part (CIP) application, the application will be treated as an improper application.

The instant application was filed as a CIP under former 37 CFR 1.62. According, application was notified that the application was improper in a Notice of Incomplete Nonprovisional Application ("Notice") mailed July 16, 2002.

A petition under 37 CFR 1.53(e) to accept and treat an improper application filed under former 37 CFR 1.62 as a proper application filed under 37 CFR 1.53(b) must include: (1) petition fee of $130.00; (2) true copy of the complete nonprovisional application, as filed, designed as the prior nonprovisional application in the application papers filed under former 37 CFR 1.62; (3) any amendments entered in the prior nonprovisional application; (4) any amendments submitted but not entered in the prior nonprovisional application; and (5) an executed oath or declaration under 37 CFR 1.63, if one has not already been submitted with e application papers filed under former 37 CFR 1.62. *See*, MPEP 201.06(b).

The instant petition fails to comply with items (2), (3), (4) and (5).

Any renewed petition must be accompanied by copies of all prior amendments entered and/or submitted but not entered in prior application 09/403,210.

With regards to item (2), although petitioner deposited 9 pages of specification including 20 claims and one page of abstract with the instant petition, petitioner has not stated whether the papers deposited on August 14, 2002 are a true copy of the complete nonprovisional application as filed.

Application must file a newly executed oath/declaration in compliance with 37 CFR 1.63, identifying the specification to which it is directed. A surcharge of $130.00 is also required.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.53(e)." This is not a final agency decision. If no request for reconsideration is timely filed, this application will be forwarded to the Office of Initial Patent Examination for further processing with a filing date of August 14, 2002.

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

By mail:	**Mail Stop Petition** Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 308-6916
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office 2011 South Clark Place Customer Window, **Mail Stop Petition** Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

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

Alesia M Brown for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
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P.O. BOX 1450
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Shlesinger, Fitzsimmons & Shlesinger
Suite 1323
183 East Main Street
Rochester, NY 14604

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SEP 15 2005

OFFICE OF PETITIONS

In re Application of :
Locati : ON PETITION
Application No. 10/171,220 :
Filed: June 4, 2002 :
For: PROCESS AND PLANT FOR :
PRODUCING PAPER OR PAPERBOARD :
FROM WASTE PAPER :

This is a decision on the "RENEWED PETITION UNDER 37 C.F.R. § 1.53(e)," filed January 16, 2004, wherein petitioner requests that the above-identified application be treated as a continuation application filed under 37 CFR 1.53(b) and that the application be accorded a filing date of June 25, 2002.

The petition is **GRANTED**.

The instant application was filed as a CIP under former 37 CFR 1.62. Accordingly, the applicant was notified that the application was improper in a Notice of Incomplete Nonprovisional Application (Notice) mailed July 16, 2002.

A petition to accept and treat an improper application filed under former 37 CFR 1.62 as a proper application filed under 37 CFR 1.53(b) must include: (1) petition fee; (2) true copy of the prior application as originally filed, including the specification, drawings, and signed oath or declaration; (3) any amendments entered in the prior application; any amendments submitted but not entered in the prior application and directed to be entered in the 37 CFR 1.62 application papers; (4) and a signed oath or declaration in compliance with 37 CFR 1.63 and the surcharge. The true copy of the prior application, any amendments entered in the prior application or not entered in the prior application but directed to be entered on the filing date of the above-identified application, and any preliminary amendment submitted with the 37 CFR 1.62 application papers will constitute the original disclosure of the resulting application under 37 CFR 1.53(b).

The instant renewed petition has been reviewed and found to be in compliance with the above-referenced requirements. Accordingly, the instant petition to treat the instant application as an application under 37 CFR 1.53(b) and to accord the application a filing date of August 14, 2002 is hereby **GRANTED**.

This application is being forwarded to the Office of Initial Patent Examination for processing as an application under 37 CFR 1.53(b) with a filing date of August 14, 2002.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON DC 20004

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MAR 03 2008

In re Application of :
Locati :.
Filing Date : August 14, 2002 :
Application No. 10/171,220 : ON PETITION
Atty. Dkt. No.: P71642US0 :

This decision is in response to the "URGENT REQUEST FOR CORRECTION OF PETITION DECISION OF RENEWED PETITION UNDER 37 C.F.R. 1.53(e), MAILED SEPTEMBER 15, 2005," filed January 19, 2007, to accord the above-identified application a filing date of June 4, 2002.

On June 4, 2002, the USPTO received, *inter alia*, an application transmittal letter, requesting that the above-identified application be treated as an application pursuant to 37 CFR 1.62, and a declaration. The USPTO did not receive a specification, including claim or drawing.

On July 16, 2002, the Office of Initial Patent Examination (OIPE) mailed a "NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION FILED UNDER 37 CFR 1.53(b)" (Notice). The Notice indicated that the application had not been accorded a filing date because the application was deposited without a specification and claim as required per 35 USC 112.

On August 14, 2002, a "PETITION TO THE COMMISSIONER UNDER 37 CFR 1.181" was filed, requesting that the application be accorded a filing date of June 4, 2002. The petition acknowledged that the application had been improperly filed under 37 CFR 1.62 and acknowledged that the application papers submitted June 4, 2002 did not include a specification.

The petition was dismissed by way of a decision mailed July 14, 2003. The decision treated the petition as a petition having been filed under 37 CFR 1.53(e), in accordance with MPEP 201.06(b) (8th Ed., Rev. 1, Feb. 2003) because in accordance with MPEP 201.06(b), "[i]f the application filed on or after December 1, 1997 under former 37 CFR 1.62 is a continuation-in-part (CIP) application, the application will be treated as an improper application. In which case, the applicant will be notified and given an opportunity to file a petition under 37 CFR 1.53(e) to have the application converted to an application filed under 37 CFR 1.53(b)."

The decision also advised, in accordance with MPEP 201.06(b) (8th Ed., Rev. 1, Feb. 2003), that a petition under 37 CFR 1.53(e) to accept and treat an improper application filed under former 37 CFR 1.62 as a proper application filed under 37 CFR 1.53(b) must include: (1) the $130.00 petition fee; (2) a true copy of the complete nonprovisional application, as filed, designated as the prior nonprovisional application in the application papers filed under former 37 CFR 1.62; (3) any amendments entered in the prior nonprovisional application; (4) any amendments submitted but not entered in the prior nonprovisional application and directed to be entered in the application papers filed under former 37 CFR 1.62; and (5) an executed oath or declaration under 37 CFR 1.63, if one has not already been submitted with the application papers filed under former 37 CFR 1.62.

The decision accorded the application a filing date of August 14, 2002 because, in accordance with 37 CFR 1.53(b), the filing date of an application for patent filed under 37 CFR 1.53(b), except for a provisional application under 37 CFR 1.53(c) or a continued prosecution application under 37 CFR 1.53(d), is the date on which a specification as prescribed by 35 U.S.C. 112 containing a description pursuant to § 1.71 and at least one claim pursuant to § 1.75, and any drawing required by § 1.81(a) are filed in the Patent and Trademark Office.

Applicant submitted a specification, claim, and drawing on August 14, 2002. As further held on decision on petition, applicant did not satisfy all of the requirements of MPEP 201.06(b) (8th Ed., Rev. 1, Feb. 2003).

Applicant submitted a renewed petition on January 16, 2004 and satisfied the outstanding requirements of MPEP 201.06(b) (8th Ed., Rev. 1, Feb. 2003). While petitioner continued to request a filing date of June 4, 2002, applicant remained entitled to a filing date of August 14, 2002, the date upon which the filing requirements of 37 CFR 1.53(b) were met.

The decision mailed September 15, 2005 acknowledged that the application had satisfied the requirements of MPEP 201.06(b) and was granted a filing date of August 14, 2002.

The instant petition renews applicant's request for a filing date of June 4 2002. On June 4, 2002, applicant submitted an improper request under former rule 37 CFR 1.62. As such, applicant submitted an improper application that did satisfy the requirements for accordance of a filing date. It was not until August 14, 2002 that applicant met the requirements for accordance of a filing date under the provisions of 37 CFR 1.53(b).

Telephone inquiries related to this decision may be directed to Petitions Attorney Alesia M. Brown 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
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 7

KENYON & KENYON
ONE BROADWAY
NEW YORK, NY 10004

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FEB 28 2003
OFFICE OF PETITIONS

In re Application of :
Mark E. Thompson et al :
Application No. 10/171,235 : NOTICE
Filed: June 13, 2002 :
Attorney Docket No. 10020/15303 :

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 1774.

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

Transaction List

Search by

- Accounting Date: (MMDDYY) Operator ID:
- Name/Number: 10171235
- Attrny Docket No:
- Deposit Account No.:

Accounting Date Starts: Ends:

Find...

Accounting Date	Operator ID	Seq. No.	Txn Src	Fee Code	St	Amount	Name/Number	Dep Acct
06/20/2002	DEMMANU1	126	SALE	203	A	18.00	10171235	110600
06/20/2002	DEMMANU1	125	SALE	202	A	210.00	10171235	110600
06/20/2002	DEMMANU1	124	SALE	201	A	370.00	10171235	110600
06/20/2002	DEMMANU1	118	SALE	203	V	18.00	10171235	110600
06/20/2002	DEMMANU1	117	SALE	202	V	210.00	10171235	110600
06/20/2002	DEMMANU1	116	SALE	201	V	370.00	10171235	110600

OK | Adjustment Detail | Authorization Detail | Print Screen

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Adjustment date: 02/25/2003  SLUANG1
06/20/2002 DEMMANU1 00000054 110600   10171235
01 FC:201          370.00 CR
02 FC:202          210.00 CR
03 FC:203           18.00 CR
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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

THE PROCTER & GAMBLE COMPANY
GLOBAL LEGAL DEPARTMENT – IP
SYCAMORE BUILDING -4TH FLOOR
229 EAST SIXTH STREET
CINCINNATI, OH 45202

MAILED

NOV 19 2009

OFFICE OF PETITIONS

In re Application of
Vincenzo Tomarchio et al
Application No. 10/171,238
Filed: June 12, 2002
Attorney Docket No. 58653/01122

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 1, 2009, to revive the above-identified application.

The petition is **DISMISSED.**

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

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 30, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2).

The final Office action mailed April 30, 2008 set a shortened statutory period for reply of three (3) months. Two month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on October 1, 2008.

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

The Office record show a response was received on September 30, 2008. However, this response did not place the application in condition for allowance. A courtesy copy of the October 17, 2008 advisory action accompanies this decision for petitioner's convenience.

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

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

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

Attachment: A courtesy copy of the October 17, 2008 advisory action.

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.
10/171,238	06/12/2002	Vincenzo Tomarchio	58653/01122	9128

27752 7590 10/17/2008
THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI, OH 45202

EXAMINER
MARKOFF, ALEXANDER

ART UNIT	PAPER NUMBER
1792	

MAIL DATE	DELIVERY MODE
10/17/2008	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.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/171,238	Applicant(s) TOMARCHIO ET AL.	
	Examiner Alexander Markoff	Art Unit 1792	

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

THE REPLY FILED 30 September 2008 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 _____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 *30 September 2008*. 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: *20,23,24,28 and 29*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
    See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Alexander Markoff/
Primary Examiner, Art Unit 1792

Continuation of 3. NOTE: The applicants proposed to amend claim 20 to introduce new limitations. The proposed amendment raises new issues, which would require further consideration and or search..

Continuation of 11. does NOT place the application in condition for allowance because: the applicants rely on the proposed amendment, which would not be entered. Further, Twardowski teaches the use of any conventional inks. The applicants admitted that the claimed inks were conventional and available from commercial suppliers. It would have been obvious to an ordinary artisan at the time the invention was made to use the conventional and commercially available inks as taught by Twardowski. The examiner's conclusion is based on the teaching of the applied document.

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United States Patent and Trademark Office
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MAR 2 9 2010

OFFICE OF PETITIONS

THE PROCTER & GAMBLE COMPANY
GLOBAL LEGAL DEPARTMENT – IP
SYCAMORE BUILDING – 4TH FLOOR
299 EAST SIXTH STREET
CINCINNATI, OH 45202

In re Application of	:	
Vincenzo Tomarchio et al	:	
Application No. 10/171,238	:	ON PETITION
Filed: June 12, 2002	:	
Attorney Docket No. 58653/01122	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed January 20, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief in triplicate (accompanied by the fee required by 37 CFR 1.17(c)), runs from the date of this decision.

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

This matter is being forwarded to Technology Center AU 1792 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

John C. Philips
FISH & RICHARDSON P.C.
12390 El Camino Real
San Diego, CA 92130

MAILED

JAN 2 7 2006

TECHNOLOGY CENTER 2100

In re Application of:
Glen David Brin
Application No. 10/171,246
Filed: June 12, 2002
For: INTERACTIVE COMMUNICATION BETWEEN A PLURALITY OF USERS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed December 28, 2005.

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

The request filed December 28, 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

JRM

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
(571) 272-3595

cc: Martin Jaquez
JAQUEZ & ASSOCIATES
6265 Greenwish Drive, Suite 100
San Diego, CA 92122

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ALEXANDRIA, VA 22313-1450
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AUG 30 2006

Technology Center 2100

Jaquez & Associates
6265 Greenwich Drive
Suite 100D
San Diego, CA 92122

In re Application of: Glen David BRIN	)	
Application No. 10/171,246	)	*SUA SPONTE*
Attorney Docket No. 13288-002001	)	WITHDRAWAL OF HOLDING OF
Filed: June 12, 2002	)	ABANDONMENT *under 37 CFR 1.181*
For: INTERACTIVE COMMUNICATION	)	
BETWEEN A PLURALITY OF USERS	)	

A review of the application reveals that a Notice of Abandonment was mailed to the Applicant on August 15, 2006. The notice indicated that the instant application was being held abandoned for failure to timely file a response to the requirement for corrected drawings (Fig. 3A) set forth in the Notice of Allowability (PTOL-37) mailed on April 3, 2006. Note however, in response to the Notice of Allowance and Issue Fee(s) Due (PTOL-85), also mailed on April 3, 2006, Applicant timely paid the required issue fee on July 3, 2006.

In an interview with Applicant on August 23, 2006 (see PTOL-413), the Examiner of record indicated that the requirement for corrected drawings, set forth in the April 3, 2006 Notice of Allowability, was in fact in error, and that the replacement drawing, submitted on December 9, 2005 (Fig. 3A) was sufficient. See also corrected Notice of Allowability attached thereto. The replacement sheet (drawing figure 3A, submitted December 9, 2005) is sufficient to satisfy the formal drawing requirement.

In view of these facts, the abandonment of the application was clearly in error and is hereby **VACATED**.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to **WITHDRAW** the holding of abandonment, restore the instant application to (allowed) pending status and to **FORWARD** the application to the Office of Patent Publications for further processing.

Inquiries to this decision may be directed to Special Programs Examiner Brian Johnson at (571) 272-3595.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security

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THE PROCTER & GAMBLE COMPANY
GLOBAL LEGAL DEPARTMENT – IP
SYCAMORE BUILDING – 4TH FLOOR
299 EAST SIXTH STREET
CINCINNATI, OH 45202

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AUG 06 2008

In re Application of :
Mark J. Kline et al :
Application No. 10/171,249 : ON PETITION
Filed: June 13, 2002 :
Attorney Docket No. 8969 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 2, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of June 27, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is September 28, 2007.

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

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

This application is being referred to Technology Center AU 3761 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petition Examiner
Office of Petitions

OIPE JC70
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PATENT & TRADEMARK OFFICE

03 C0
#3

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Steven Sullivan, et al.	Group Art Unit: 2834
	Examiner: Not Yet Assigned
Application No.: 10/171,262	Attorney Docket No.: OMDN-1001USDIV
Filed: June 13, 2002	
Title: Generators and Transformers With Toroidally Wound Stator Winding	

Response to Notice to File Corrected Application Papers

Commissioner for Patents
Washington, D.C. 20231

Sir:

In response to the Notice to File Corrected Application Papers dated July 29, 2002, the response to which is due September 29, 2002, Applicant respectfully submits the following:

CERTIFICATE OF MAILING 37 CFR 1.8

I hereby certify that this document along with any document referred to as being attached or enclosed, is being deposited with the United States Postal services as first class mail, on September 20, 2002, postage prepaid, in an envelope addressed to the Commissioner for Patents, Washington, D.C. 20231

Lynne Webb
(Name of person signing paper)

Lynne Webb
(Signature of person signing paper)

1. Replacement Figures 1 through 16, thirteen (13) sheets of informal drawings; and

2. Copy of Notice to File Corrected Application Papers.

No fee is believed to be due with this filing. However, if any fee is due, the Commissioner is authorized to charge deposit account no. 50-0462 for any fee due or credit deposit account no. 50-0462 for any over payment.

Respectfully submitted,

Kevin J. Dunleavy
Registration No. 32,024

Dated: 9/20/02

Customer No. 21302
KNOBLE & YOSHIDA LLC
Eight Penn Center, Suite 1350
1628 John F. Kennedy Blvd.
Philadelphia, PA 19103
Telephone: (215) 599-0600
Facsimile: (215) 599-0601
e-mail: kjdunleavy@patentwise.com

 #3

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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
10/171,262	06/13/2002	Steven L. Sullivan	OMDN-1001USDIV

CONFIRMATION NO. 1699

FORMALITIES LETTER

OC000000008530193

21302
KNOBLE & YOSHIDA
EIGHT PENN CENTER
SUITE 1350, 1628 JOHN F KENNEDY BLVD
PHILADELPHIA, PA 19103

OIPE JC
SEP 2 6 2002
PATENT & TRADEMARK

Date Mailed: 07/29/2002

NOTICE TO FILE CORRECTED APPLICATION PAPERS

Filing Date Granted

This application has been accorded an Application Number and Filing Date. The application, however, is informal since it does not comply with the regulations for the reason(s) indicated below. Applicant is given **TWO MONTHS** from the date of this Notice within which to correct the informalities indicated below. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a)

The required item(s) identified below must be timely submitted to avoid abandonment:

- Substitute drawings in compliance with 37 CFR 1.84 because:
  - drawings have a line quality that is too light to be reproduced (weight of all lines and letters must be heavy enough to permit adequate reproduction) or text that is illegible (reference characters, sheet numbers, and view numbers must be plain and legible) see 37 CFR 1.84(l) and (p)(1));

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

Haimanot Tegbaru
Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 1 - ATTORNEY/APPLICANT COPY

RECEIPT ACKNOWLEDGED
AUG - 5 2002
KNOBLE & YOSHIDA

DOCKETED : MP
ACTION : Response
BASE DATE : 7-29-02
DUE DATE : 9-29-02
DEADLINE : 2-28-3
ATTORNEYS : KJD
INITIALS : JCR

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Ann M. Knab
Pentron Corporation
53 North Plains Industrial Road
Wallingford, CT 06492

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MAY 2 8 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Dmitri Brodkin, et. al. :
Application No. 10/171,278 :
Filed: June 12, 2002 :
Attorney Docket No. JPP-1236CIP-1 :

This is a decision on the petition, filed by facsimile transmission on May 5, 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, if 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.

The application is being forwarded to the Publishing Division to be processed into a patent.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAY 13 2004

Paper No. 8

In re Application of
Benjamin McCabe *et al*
Application No. 10/171,307
Filed: June 12, 2002
Attorney Docket No. 29283-70939

DECISION ON PETITION

This is a decision on the petition filed on April 19, 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 27, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioners allege that this application is not abandoned because a timely and proper reply to the Office letter in question was in fact filed. Petitioners have supported this allegation by furnishing a copy of the reply and a copy of a filing receipt for the reply which shows that the reply was in fact received in the Office on November 28, 2003, a Sunday, and therefore a date within the period set by the August 27, 2003 Office letter for filing a reply thereto. Based on this evidence, 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 examiner for action on the reply filed on November 28, 2003.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Barnes & Thornburg
11 South Meridian
Indianapolis, IN 46204

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OCT 01 2009

OFFICE OF PETITIONS

Pandiscio & Pandiscio
470 Totten Pond Road
Waltham MA 02451-1914

In re Application of :
Klar :
Application No. 10/171,370 : DECISION ON PETITION
Filed: June 13, 2002 :
Attorney Docket Number: ENGEL-28 :

This is a decision on the petition, filed May 29, 2009 which is being treated as a petition under 37 CFR 1.181, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED AS MOOT**.

A Notice to file Missing Parts of a Nonprovisional Application was mailed on July 16, 2002. Withdrawal of the July 16, 2002 Notice was mailed on December 31, 2003 and January 2, 2004.

In light of the withdrawal of the Notice to File Missing Parts, this application was not held abandoned. A petition to withdraw the holding of abandonment is not required

This application is being referred to the Office of Patent Application Processing for appropriate action in the normal course of business.

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

/Charlema R. Grant/

Charlema R. Grant
Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JAN 27 2006

MAYER, BROWN, ROWE & MAW LLP
1909 K STREET, N.W.
WASHINGTON, DC 20006

In re Application of
KOENEN, JACOB
Appl No.: 10/171,383
Filed: June 14, 2002
For: PRESSURIZED FLUID CONDUIT
Attorney Docket Number: P 0291681 / 20172US

DECISION VACATING OFFICE ACTION

This application is before the Director of Technology Center 3700. A review of the prosecution history indicates that applicant filed a response on May 14, 2004 that added additional claims that required an additional $126 in fees. The response also included an authorization to charge fees to a deposit account. However, the fees were not charged at that time. A Notice of Fee Deficiency was issued in error on June 22, 2004. This decision vacates the Notice of Fee Deficiency of June 22, 2004 *sua sponte* under 37 CFR 1.181. The fee of $126 was charged to the deposit account in October 2004. The application will be forwarded to the Technical Support Staff for entry of the amendment filed May 14, 2004.

Henry A. Bennett, Acting Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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GREENLEE WINNER AND SULLIVAN P C
5370 MANHATTAN CIRCLE
SUITE 201
BOULDER CO 80303

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FEB 23 2004

OFFICE OF PETITIONS

In re Application of
Cook, et al.
Application No. 10/171,422
Filed: June 12, 2002
Attorney Docket No. 25-02
For: SURFACE MODIFIED PARTICLES BY MULTI-STEP MICHAEL-TYPE ADDITION AND PROCESS FOR THE PREPARATION THEREOF

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10(c), filed November 1, 2002, requesting that a Preliminary Amendment and a check for $168.00 be accorded a filing date of October 10, 2002, rather than the presently accorded filing date of October 16, 2002.

Petitioners request the earlier filing date on the basis that the Preliminary Amendment and check were deposited in Express Mail service of the United States Postal Service (USPS) on October 10, 2002, pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by a copy of Express Mail label no. EV182438924US showing a "date-in" of 10/10/02 **and** a USPS date stamp of "OCT 10 2002". The same Express Mail label number is listed on the first page of the original Preliminary Amendment found in the application file.

The evidence presented establishes that the Express Mail package associated with Express Mail label no. EV182438924US was deposited with the USPS on October 10, 2002.

Accordingly, the petition is granted. No fee has been or will be charged in connection with this petition.

The application is being returned to Technology Center GAU 1773 for examination in due course.

Any inquiries related to this decision should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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

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APR 09 2008

OFFICE OF PETITIONS

In re Application of

GILBERT, Andrew C. et al.
Application No. 10/171,437
Filed: June 12, 2002
Attorney Docket No. **01-1043**

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 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.

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

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **MARY ANN GILBERT**
5 SCARLET OAK ROAD
CALIFON, NJ 07830

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

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United States Patent and Trademark Office
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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVENUE, SUITE 5400
SEATTLE, WA 98104-7092

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OFFICE OF PETITIONS

In re Patent No. 6,842,300	:	
Issue Date: January 11, 2005	:	
Application No. 10/171,453	:	ON PETITION
Filed: June 13, 2002	:	
Attorney Docket No. 854063.693	:	

This is a decision on the petition filed May 17, 2007, which is being treated as a petition under 37 CFR 3.81(b)[1] to add assignee's names on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted**.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This application is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

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Paper No.

Matthew J. Marquardt
BROWN RAYSMAN MILLSTEIN
FELDER & STEINER LLP
900 Third Avenue
New York, NY 10022

MAILED

JAN 2 7 2005

Technology Center 2100

In re Application of:
Reznick, J.
Application No. 10/171,455
Filed: June 12, 2002
For: SYSTEM AND METHOD FOR TRAFFIC MANAGEMENT

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed April 23, 2003.

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

The request filed April 23, 2003 meets all the requirements. Accordingly the request is **GRANTED**.

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

James R. Matthews

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

cc: CROSS MEDIA MARKETING CORP.
461 Fifth Avenue, 19th Floor
New York, NY 10017

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FOLEY HOAG LLP
PATENT GROUP
WORLD TRADE CENTER WEST
155 SEAPORT BOULEVARD
BOSTON, MA 02110

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SEP 1 5 2005

OFFICE OF PETITIONS

In re Application of
Kevin J. Dowling et al
Application No. 10/171,463
Filed: June 13, 2002
Attorney Docket No. CKB-103.01

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

This is a decision on the petition under 37 CFR § 1.78(a)(3), filed August 4, 2005, which is being treated as a petition under both 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **Granted**.

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

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

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

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional applications as required by 37 CFR 1.78(a)(5)(ii).

The petition complies with the requirements for a grantable petition under 37 CFR §§1.78(a)(3) and 1.78(a)(6) in that (1) a reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 119(e) to the prior-filed applications satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should <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 365(c) and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should <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 the undersigned at (571) 272-3218. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 2821 for appropriate action on the amendment submitted August 4, 2005, including consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) for the benefit of the prior-filed applications.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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

COOLEY GODWARD, LLP
3000 EL CAMINO REAL
5 PALO ALTO SQUARE
PALO ALTO, CA 94306

Paper No. 6

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APR 07 2003

OFFICE OF PETITIONS

In re Application of:
Mark A. Gallop, Kenneth C. Cundy,
Cindy X. Zhou, Fenmei Yao, Jia-Ning
Xiang, Ian R. Ollman, Fayang G. Qiu
Application No.: 10/171,485
Filed: June 11, 2002
Title of Invention: PRODRUGS OF
GABA ANALOGS, COMPOSITIONS AND USES
THEREOF

DECISION GRANTING
STATUS
UNDER 37 CFR 1.47(a)

This is in response to the Petition Under 37 CFR 1.47(a), filed December 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 inventor, Fayang G. Qiu, refuses to sign the declaration.

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

The application file is being returned 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

Paper No. None

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OFFICE OF PETITIONS

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

In re Application of Trevor Bernard Nulty et al. Application No. 10/171,490 Filed: June 13, 2002 Attorney Docket Number: POF 3.9-052 CONT Title: RESEALABLE CLOSURE FOR A CONTAINER	DECISION ON PETITION UNDER 37 C.F.R. §1.181

This is a decision on the petition filed on February 28, 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 July 6, 2005, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on October 7, 2005. A notice of abandonment was mailed on February 8, 2006.

With the present petition, Petitioner has asserted that a response to this communication was timely filed on November 21, 2005[1]. Petitioner has submitted a copy of this response (a notice of appeal, an appeal brief, and a two-month extension of time), as well as a postcard receipt which evinces the receipt of the same on November 25, 2005.

The electronic file has been reviewed, and the same contains the above-mentioned response. Furthermore, the fees associated with

1 Petition, page 1.

the filing of a notice of appeal and a two-month extension of time were charged to Petitioner's Deposit Account on November 25, 2005. Hence, it is clear that this response was received on November 25, 2005.

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 fee associated with the filing of an appeal brief has been charged to Petitioner's Deposit Account, as authorized in the petition.

Technology Center 3700 will be notified of this decision.

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

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

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OFFICE OF PETITIONS

WALKER DIGITAL
2 HIGH RIDGE PARK
STAMFORD CT 06905

In re Application of
WALKER et al.
Application No. 10/171,495
Filed: June 13, 2002
Attorney Docket No. 01-017

DECISION
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 25, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed September 6, 2005, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on November 8, 2005 (November 6 being a Sunday). *See* MPEP 1215.04.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137 (b) in that (1) the reply in the form of a Request for Continued Examination (RCE), a submission in the form of an Amendment, and the requisite fee of $790; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the filing of the appeal brief of September 6, 2005 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4787.

The application matter is being forwarded to Technology Center AU 3714 for further processing.

Denise Pothier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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DORSEY & WHITNEY
SUITE 3400
FOUR EMBARCADERO CENTER
SAN FRANCISCO, CA 94111-4187

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Thomas M. Brennan :
Application No. 10/171,497 :
Filed: June 12, 2002 :
Attorney Docket No. A-58607-6 :

This is a decision on the petition, filed January 27, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 6, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1634 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BLAKE, CASSELS & GRAYDON LLP
BOX 25, COMMERCE COURT WEST
199 BAY STREET, SUITE 2800
TORONTO ON M5L 1A9 CA CANADA

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OFFICE OF PETITIONS

In re Application of	:	
Duley et al.	:	
Application No. 10/171,538	:	ON PETITION
Filed: June 17, 2002	:	
Attorney Docket No. 52531/00027	:	

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed April 1, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on July 2, 2005.

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

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

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

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 6

Duane Morris LLP
100 College Road West
Suite 100
Princeton, NJ 08540

MAILED

AUG 2 4 2004

Technology Center 2100

In re Application of:
Frank J. DISANTO, et al.
Application No. 10/171,604
Filed: June 14, 2002
For: METHOD AND SYSTEM FOR PREVENTING COMPUTER WORM DISSEMINATION USING ENCRYPTION

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed August 2, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED.**

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

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

cc: Plevy & Howard
600 North Easton Road
Willow Grove, PA 19090

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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May 5, 2009

Narendra R. Thappeta
Law Firm of Naren Thappeta
#7, 1st Floor, Gulmohar Enclave
Kunadanahalli Gate, Bangalore
Karnataka560 037, INDIA

Patent No.: 7,302,486 B1
Application No.: 10/171618
Inventor(s): Nalinaksh Madhukar Pai
Issued: November 27, 2007
Title: **EFFICIENT RETRIEVAL OF DESIRED INFORMATION FROM AGENTS**

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

By fax: (571) 273-0025
ATTN: Office of Petitions

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

A certificate of correction will be issued to correct the remaining error mentioned in your request.

Virginia Tolbert
For Mary Diggs, Supervisor
Decisions & Certificate of Correction Branch
(703) 756-1591

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

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Patent Capital Group - Cisco
6119 McCommas
Dallas TX 75214

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OFFICE OF PETITIONS

In re Application of	:	
Nalinaksh Madhukar Pai	:	
Application No. 10/171618	:	DECISION
Filing or 371(c) Date: 06/17/2002	:	ON PETITION
Patent No.: 7302486	:	
Issue Date: 11/27/2007	:	
Attorney Docket No.: 017/158648	:	

This is a decision on the"Response to Decisions & Certificate of Correction Branch," filed July 6, 2009, requesting the Petition for Certificate of Correction Under 35 USC and 37 CFR 1.323 filed October 14, 2008, be granted, correcting of 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 petition was accompanied by a certificate of correction as required by 3.81(b), and the fee submitted with the present petition. Further, Office assignment records reflect that CISCO TECHNOLOGY INC., San Jose, CA, is the assignee of record. As the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Office records reveal that the present patent was corrected in a Certificate of Correction on August 18, 2009.

The files is being referred to the Files Repository.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20051018

DATE : October 18, 2005

TO SPE OF : ART UNIT 2826

SUBJECT : Request for Certificate of Correction on Patent No.: 6,777,725

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:

Cert of Correction filed 6/27/05 is replete with errors, mostly involving claim numbering.

NATHAN J. FLYNN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE: Nathan Flynn **Art Unit** 2826

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.
10/171,643	06/14/2002	Josef Willer	S&Z-IO020603	2082

24131 7590 11/09/2005
LERNER AND GREENBERG, PA
P O BOX 2480
HOLLYWOOD, FL 33022-2480

EXAMINER
WILSON, SCOTT R

ART UNIT	PAPER NUMBER
2826	

DATE MAILED: 11/09/2005

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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LERNER AND GREENBERG, PA
P.O. Box 2480
Hollywood, FL 33022-2480

NOV 0 9 2005

In re Application of:
WILLER *et al.*
Serial No.: 10/171,643
Filed: June 14, 2002
U.S. Patent No. 6,777,725
Issued: August 17, 2004
Attorney Docket No. **S&Z-IO020603**

DECISION RETURNING
PRIOR ART CITED UNDER
35 U.S.C. § 301

The prior art citation under 35 U.S.C. § 301 and 37 C.F.R. § 1.501, filed by the patent owner on April 25, 2005, is before the Group Director of Examining Group 2800 for consideration.

STATUTES, REGULATIONS AND PRACTICE

35 U.S.C. § 301 reads as follows:

> Any person at any time may cite to the Office in writing prior art consisting of patents or printed publications which that person believes to have a bearing on the patentability of any claim of a particular patent. <u>If the person explains in writing the pertinency and manner of applying such prior art to at least one claim of the patent, the citation of such prior art and the explanation thereof will become a part of the official file of the patent</u>. At the written request of the person citing the prior art, his or her identity will be excluded from the patent file and kept confidential. (Emphasis added.)

37 C.F.R. § 1.501 reads, in pertinent part:

> (a) At any time during the period of enforceability of a patent, any person may cite to the Patent and Trademark Office in writing prior art consisting of patents or printed publications which that <u>person states to be pertinent and applicable to the patent and believes to have a bearing on the patentability of any claim of a particular patent</u>. If the citation is made by the patent owner, the explanation of

> pertinency and applicability may include an explanation of how the claims differ from the prior art. (Emphasis added.)

Section 2205 of the Manual for Patent Examining Procedure (M.P.E.P.) reads, in pertinent part:

> The prior art which may be submitted under 35 U.S.C. 301 is limited to "written prior art consisting of patents or printed publications."
>
> An explanation is required of how the person submitting the prior art considers it to be pertinent and applicable to the patent, as well as an explanation of why it is believed that the prior art has a bearing on the patentability of any claim of the patent. Citations of prior art by patent owners may also include an explanation of how the claims of the patent differ from the prior art cited. . . .
>
> A prior art citation is limited to the citation of patents and printed publications and an explanation of the pertinency and applicability of the patents and printed publications. This may include an explanation by the patent owner as to how the claims differ from the prior art. (Emphasis added.)

Section 2206, II, B of the M.P.E.P. reads in pertinent part:

> If an improper prior art citation under 37 C.F.R. 1.501 is filed by the patent owner prior to an order for reexamination, it should not be entered in the file. The patent owner should be notified of the nonentry, and the citation papers should be returned to the patent owner along with the notification.

DECISION

The citation of prior art lacks an explanation of the pertinency and the manner of applying the cited prior art to at least one claim of the patent. Accordingly, the citation of prior art filed April 25, 2005 does not meet the requirements for entry into the patent file. The citation is being returned to the patent owner pursuant to M.P.E.P. § 2206, II, B.

This decision is made of record in the patent file.

James L. Dwyer, TC Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

Enclosure: Citation of prior art filed April 25, 2005

10171643

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10-30-06

Paper No.: _____

TO SPE OF : ART UNIT 2826

SUBJECT : Request for Certificate of Correction on Patent No.: 6777725

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 corrections to claims 14 - 26 are accepted. The correction to claim 32 is not. The new claim 32 would be a repeat of claim 31.

SUE PURVIS
SPE

2826
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. None

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OCT 1 9 2005

OFFICE OF PETITIONS

Robert E. Bushnell
Suite 300
1522 K Street, N.W.
Washington DC 20005

In re Application of
Jae-Ho Moon et al.
Application No. 10/171,657
Filed: June 17, 2002
Attorney Docket No. P56720
Title: BUBBLE-JET TYPE INK-JET PRINTHEAD

DECISION ON PETITION
UNDER 37 C.F.R. §1.181(A)

This is a decision on the petition under 37 C.F.R. §1.181(a) to withdraw the holding of abandonment, filed on July 29, 2005.

On May 31, 2005 the Office mailed a decision of the Board for Patent Appeals and Interferences which upheld the Examiner's rejections. On June 9, 2005, a Notice of Abandonment was mailed.

With the present petition, Petitioner has included a request for a rehearing.

It is noted that 37 C.F.R. §1.197(b) indicates that an Appellant may file a single request for rehearing within two months from the date of the original decision, unless the original decision is so modified by the decision on rehearing as to become, in effect, a new decision, and the Board of Patent Appeals and Interferences so states.

It is further noted that this petition was submitted within the two-month timeframe established by 37 C.F.R. §1.197(b).

Therefore, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to the Board for Patent Appeals and Interferences for further processing of the request for a rehearing submitted concurrently with this petition.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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VIA MERAVIGLI, 16
MILANO, 20123
ITALY

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DEC 30 2004

OFFICE OF PETITIONS

In re Application of	:	
Luigi Fabbri	:	
Application No. 10/171,666	:	NOTICE
Filed: June 17, 2002	:	
Attorney Docket No. 36045/GM/BR	:	

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

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

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

Inquiries related to this communication should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Publishing Division.

Wan Laymon

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.
www.uspto.gov

Paper No. 4

Pillsbury Winthrop LLP
Intellectual Property Group
1600 Tysons Boulevard
McLean, VA 22102

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DEC 11 2002

OFFICE OF PETITIONS

In re Application of
Black, et al.
Application No. 10/171,680
Filed: June 17, 2002
Attorney Docket No. P 0280749
1995-30-0231D1C

DECISION ON PETITION

This is a decision on the "Petition to Receive Filing Date" filed September 19, 2002, requesting that the above-identified application be accorded a filing date of June 17, 2002. This petition is being treated as a petition under 37 CFR § 1.182, requesting that a filing date be accorded based on an incorporation by reference statement.

Application papers in the above-identified application were received on June 17, 2002. However, on July 19, 2002, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application," notifying applicants *inter alia* 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 the drawings were enclosed with the application papers filed June 17, 2002, as further attested to in the postcard and transmittal documents filed with the Patent Office, and evidenced by applicant's filing of a preliminary amendment on July 22, 2002, amending the description of the drawings. In addition, petitioner notes that the application is a continuation of application 09/352,595, and the transmittal documents filed therewith, indicated at number 3 of the transmittal that "The entire disclosure of the prior application is considered as being part of the disclosure of the accompanying application and is hereby incorporated therein by reference thereto."

Petitioner has not provided persuasive evidence that the drawings were among the papers filed on June 17, 2002. The petition did not include a copy of petitioner's return postcard receipt[1]. As to the transmittal letter, it does not evidence receipt in the Office of any of the items identified thereon because it is not used for verification of receipt of those items by the Office. Regarding applicant's subsequent amending of the application drawing descriptions, this action only supports a conclusion that applicant intended to include, or thought drawings had been included, in the application, not that drawings were in fact included in the application-as-filed.

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[1] 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.

Nonetheless, a review of the application-as-filed reveals that it contained the incorporation by reference statement, incorporating the entire disclosure of the prior application. 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.

In view thereof, the petition under § 1.182 is grantable. However, the petition as filed on September 19, 2002, did not include a copy of the drawings from the prior application as filed in the instant application. Transfer of drawings from a first pending application to another will be made only upon the granting of a petition filed under 37 CFR 1.182 which must set forth a hardship situation requiring such transfer of drawings. Petitioner has filed no such petition and set forth no such hardship.

Accordingly, the petition under § 1.182 is **DISMISSED** without prejudice to reconsideration upon the filing of a "Renewed Petition under § 1.182" with an amendment submitting the necessary omitted material and a copy of the drawings. (Of course, petitioner is not precluded from, in the alternative, providing a postcard pursuant to MPEP 503 to establish receipt in the Office of the drawings, along with a copy of the drawings).

Any request for reconsideration must be filed within TWO (2) MONTHS from the mailing date of this decision. This period is not extendable under 37 CFR §1.136(a). See 37 CFR §1.181(f).

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

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

By FAX: (703) 308-6916
Attn: Office of Petitions
Attn: Nancy Johnson[2]

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[2] To facilitate quick resolution of this matter, petitioner may elect to file the preliminary amendment by facsimile communication and to telephone attorney Johnson at the time of transmission to make her aware to expect the

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

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

for

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

Pillsbury Winthrop LLP
Intellectual Property Group
1600 Tysons Boulevard
McLean, VA 22102

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OFFICE OF PETITIONS

In re Application of
Black, et al.
Application No. 10/171,680
Filed: June 17, 2002
Attorney Docket No. P 0280749
1995-30-0231D1C

DECISION ON PETITION

This is a decision on the "Renewed Petition to Receive Filing Date" filed February 11, 2003, requesting that the above-identified application be accorded a filing date of June 17, 2002. This petition is being treated as a petition under 37 CFR § 1.182, requesting that a filing date be accorded based on an incorporation by reference statement.

Application papers in the above-identified application were received on June 17, 2002. However, on July 19, 2002, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application," notifying applicants *inter alia* that the application papers had not been accorded a filing date because the application was deposited without drawings.

On initial petition, petitioner failed to establish that the application-as-filed on June 17, 2002, included drawings. However, petitioner did show that the application-as-filed included an incorporation by reference of any drawings originally filed in parent application No. 09/332,595. Nonetheless, the petition had to be dismissed because petitioner did not supply a copy of the drawings with an amendment submitting the necessary omitted material as required[1] (Decision mailed December 11, 2002).

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[1]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.

On instant renewed petition, petitioner submitted a supplemental preliminary amendment submitting the necessary omitted material and a copy of the drawings (Figures 1-15).

In view thereof, the petition under § 1.182 is **GRANTED**. The amendment filed February 11, 2003 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 June 17, 2002**, using the application papers received in the Office on that date and the drawings (Figures 1-15) submitted on petition filed February 11, 2003, and for indication in the records of the Office that the application contains fifteen (15) sheets of drawings.

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

D Wood
for Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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PILLSBURY WINTHROP SHAW
PITTMAN, LLP
P.O. BOX 10500
MCLEAN VA 22102

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OFFICE OF PETITIONS

In re Application of	:	
Black et al.	:	DECISION ON APPLICATION
Application No. 10/171,680	:	FOR
Filed: June 17, 2002	:	PATENT TERM ADJUSTMENT
Atty Docket No. 037003/0280749	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT-RQUEST FOR RECONSIDERATION OF THE PATENT TERM INDICATION IN THE NOTICE OF ALLOWNANCE PURSUANT TO 37 CFR § 1.705(b)," filed January 11, 2006. Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from five hundred eighty-one (581) days to seven hundred eighty-six (786) days, or in the alternative, to six hundred forty-one (641) days.

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

On October 11, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 581 days. On January 11, 2006, applicant timely[1] submitted the instant application for patent term adjustment. Applicant disputes the reduction pursuant to 1.704(c)(7) of 205 days. Applicant requests removal of the 205 day reduction on the ground that the petition filed September 19, 2005 was fully responsive to the Notice of Incomplete Nonprovisional Application. Applicant further states that

[1] PALM records indicate that the Issue Fee payment was received in the Office on January 11, 2006.

submission of Paper Copy of the Sequence Listing on May 12, 2004 was fully responsive to the April 15, 2003 Notice to Comply with the Requirements for Patent Applications containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures.

Applicants' arguments have been considered, but not found persuasive. No reduction was taken on the basis of the filed petition. Further the reduction though associated with additional fees, was really due to the omission in applicant's response to the Notice of Incomplete Nonprovisional Application. Pursuant to 37 CFR § 1.704(c)(7), grounds for reductions include filing a response with an omission.

The Notice of Incomplete Nonprovisional Application of July 19, 2002 required applicant to comply with the requirements of 37 CFR 1.821-1.825. The Notice to Comply with the Requirements for Patent Applications containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures was mailed on April 15, 2003 because applicants submitted a reply that omitted a paper copy of the "Sequence Listing" as required by 37 CFR 1.821 (c). The reference to "1.135(c)" is parenthetical because 1.704(c)(7) is not limited to Office actions under 1.135(c) but applies when the Office issues any action or notice indicating that a reply has an omission which must be corrected: e.g., (1) a decision on a petition under 1.47 dismissing the petition as lacking an item necessary to grant the petition; or (2) a notice indicating that the computer readable format sequence listing filed in reply to a Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures (PTO-1661) does not comply with 1.821.

Accordingly, pursuant to 1.704(c)(7), a period of reduction of 205 days, counting the number of days beginning on the day after the date the reply having an omission was filed, October 19, 2002 and ending on the date that the reply correcting the omission was filed, May 12, 2003 was properly entered.

In view thereof, it is concluded that the determination of patent term adjustment at the time of the mailing of the Notice of Allowance is five hundred eighty-one (581) days.

The $200.00 fee set forth in 37 CFR 1.18(e) has been charged to Deposit Account No. 03-3975, as authorized. No additional fees are required.

The Office of Patent Publication has been advised of this decision. The application is thereby forwarded to the Publishing Division for processing into a patent.

Telephone inquiries specific to this decision should be directed to Charlema R. Grant, Petitions Attorney, at (571) 272-3215.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions
Office of Deputy Commissioner
For Patent Examination Policy

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COMMISSIONER FOR PATENTS
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PILLSBURY WINTHROP SHAW
PITTMAN, LLP
P.O. BOX 10500
MCLEAN VA 22102

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JUN 16 2006
OFFICE OF PETITIONS

In re Application of :
Black et al. :
Application No. 10/171,681 : LETTER REGARDING PTA
Filed: June 17, 2002 :
Atty Docket No. P 0280752 :
1995-30-0231CP1 :

This letter is in response to the "Notification Of Error Regarding The Length of Patent Term Adjustment," filed January 13, 2006. Patentee requests that the determination of patent term adjustment under 35 U.S.C. § 154(b) be reviewed for accuracy.

The request for correction of the initial determination of patent term adjustment (PTA) is **Granted**.

The Office has updated the PAIR screen to reflect the correct Patent Term Adjustment at the time of the mailing of the Notice of Allowance is six hundred ten (610) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On October 13, 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 seven hundred eighty-eight (788) days.

The Office initially determined a patent term adjustment of seven hundred eighty-eight (788) days based on an adjustment for PTO delay, pursuant to 35 U.S.C. 154 (b)(1)(A)(i).

A review of the application history reveals that Applicants should have been assessed a delay of one hundred seventy-eight (178) days. A Notice to File Missing Parts was mailed on July

22, 2002. The Notice required applicants comply with the requirements of 37 CFR 1.821-1.825. Applicants submitted a reply to the Notice on September 23, 2002. A Notice to Comply with the Requirements for Patent Applications containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures was mailed on November 20, 2002 because applicants omitted a computer readable form (CRF) copy of the "Sequence Listing", a paper copy of the "Sequence Listing" and a statement pursuant to 37 CFR 1.821(e) or 1.1821(f) or 1.1821(g) or 1.825(b) or 1.825(d).

37 C.F.R. §1.704(c)(7) states:

7) Submission of a reply having an omission (§1.135(c)), in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed.

The reference to "1.135(c)" is parenthetical because 1.704(c)(7) is not limited to Office actions under 1.135(c) but applies when the Office issues any action or notice indicating that a reply has an omission which must be corrected: e.g., (1) a decision on a petition under 1.47 dismissing the petition as lacking an item necessary to grant the petition; or (2) a notice indicating that the computer readable format sequence listing filed in reply to a Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures (PTO-1661) does not comply with 1.821.

Therefore, the basis for reduction is not §1.704(b) but is 1.704(c)(7). Applicants should have been assessed delay for the period from September 24, 2002 (the period beginning on the day after the date the reply having an omission was filed) to March 20, 2003 (the date the reply or other paper correcting the omission was filed).

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is six hundred ten days (610) days (788) days of PTO delay, reduced by (178) days of Applicants delay.

As this letter was submitted to advise 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 is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to Charlema R. Grant, Petitions Attorney, at (571) 272-3215.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

enc: PAIR screen for U.S. Application No. 10/171,681

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NOVARTIS
CORPORATE INTELLECTUAL PROPERTY
ONE HEALTH PLAZA
EAST HANOVER, NJ 07936-1080

In re Application of	:
Jeffrey Jacobs et al	:
Serial No.: 10/171,706	: PETITION DECISION
Filed: June 14, 2002	:
Attorney Docket No.: 4-32049A	:

This is in response to the petition under 37 CFR 1.144, filed March 21, 2005, requesting withdrawal of an improper restriction requirement. The delay in acting on this petition is regretted.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 111 on June 14, 2002, and contained claims 1-55. In a first Office action, mailed October 2, 2003, the examiner set forth a restriction requirement under 35 U.S.C. 121, as follows:

Group I – Claims 1-41, drawn to compounds of Formula I;
Group II – Claims 42-49, drawn to a of preparing the compounds of Formula I;
Group III – Claims 50-52, drawn to a method of using the compounds of Formula I;
Group IV – Claims 53-54, drawn to a second method of using the compounds;
Group V – Claim 55, drawn to a cell culture medium.

The examiner also required election of a single species if one of Groups I-IV were elected. The examiner argued that Group I and Groups II-IV were drawn to compounds and methods for making and using and that the methods could be practiced with different compounds. Group V was considered to be unrelated to any of the other groups and directed to a different product.

Applicants replied on February 26, 2004, electing Group I and a species (Example 36) and canceling claims 42-55 (Groups II-V). The restriction requirement, *per se*, was not traversed, however the examiner's comments regarding the defining of a subgenus upon election fo a species was traversed.

The examiner mailed a non-Final Office action to applicants on April 2, 2004, acknowledging applicants' election of Group I and the species elected. The examiner then confirmed

applicants' species and expanded the species definition to a subgenus of the genus of formula I and indicated that claims 4-5 and 28-29 read on the subgenus and that claims 1-3, 6-22 and 39-41 were examined in part and claims 23-27 were withdrawn. Claim 41 was then rejected under 35 U.S.C. 112, second paragraph, as indefinite. Claims 1-22, 28-29 and 40-41 were rejected under 35 U.S.C. 112, first paragraph, as lacking enablement.

Applicants replied on September 2, 2004, amending claim 41 and responding to the rejections. The examiner's action of drawing a subgenus from the elected Group I was objected to and the examiner requested to follow the guidelines of M.P.E.P. 803.02 with respect to the examiner required election of species.

The examiner mailed a Final Office action to applicants on November 29, 2004, setting a three month shortened statutory period for reply. The examiner maintained that "claims 23-27 and 30-38 (were) drawn to compounds that fall outside of the **examined** invention." (emphasis added) The examiner referred to page 3 of the first Office action which indicated that the examiner would determine the scope of the examined invention based upon the species elected. The examiner then revised the subgenus encompassed by adding claims 30-34 to the elected claims while still maintaining claims 23-27 and 35-38 were withdrawn from consideration. The examiner also maintained the rejection of claim 41 under 25 U.S.C. 112, first and second paragraphs for reasons of record.

Applicants filed this petition on March 21, 2005, which is four months after the action complained of and could be considered untimely. However, due to examiner error, the petition will be considered on the merits. A Notice of Appeal was filed on May 27, 2005, with the required extension of time request and fees. No other reply has been filed.

DISCUSSION

Applicants argue in the petition that the examiner made a proper restriction requirement in the first Office action by dividing the claims according to category of invention and requiring an election of species within the group elected. Applicants complied with the requirement, but did comment on and provide a provisional traversal of the examiner's paragraph at page 3 indicating the examiner would determine the scope of the examined invention based on the species elected.

The examiner, however, did exactly as stated in the first Office action upon the election of species provided by applicant. The examiner argued that there were a number of patentably distinct and independent inventions (compounds) claimed in claims 1-41 and that to examine all of them would be a burden on the Office as they were classified in different classes and subclasses. Applicants argue that the provision of M.P.E.P. 803.02 must be followed for an election of species and that claim 1 is a linking claim and that if a claim dependent on a linking claim is found allowable, then the linking claim must be examined in its entirety. Applicants' arguments are correct on both counts.

Claim 1 identifies four types of N-[...]-propyl compounds and thus links them together. Claim 2 presents Formula I which is a generic formula for the four types of compounds of claim 1 in Markush type format. The examiner's Group I relies on Formula I of claim 2 to identify the

compounds which are separate from the processes of making and using. The examiner, however, did not divide or require restriction between the four types of compounds identified in claim 1 and encompassed by Group I, but required the identification of a species from which examination could begin. The examiner's failure to require restriction within claims 1 or 2, which are Markush claims, foreclosed the examiner's ability to in any way reduce the claim scope upon election of a species. Further, it is noted that a large portion of the structure of Formula I is common to all of the species and is presumed to provide the activity claimed. The variation primarily occurs in the lone ring which has variable X and a variable number of carbon atoms. The principle upon which Markush groups are constructed is that the compounds claimed thereunder have a portion, usually a large portion, of a structure in common and the activity is related to that common portion of the structure. This appears to be a valid statement for this application and the compounds of Formula I. In this instance, having made an election of species (although disavowed by the examiner), the examiner is required to follow M.P.E.P 803.02 in examining the claims. The elected species is a starting point to begin examination. If found allowable with respect to prior art then the examination is expanded to a reasonable number of additional species related thereto and if all are found allowable over the prior art and all other applicable parts of the statute the application is considered allowable.

Notably, it is not the duty or prerogative of the examiner to determine the scope of applicants' claims (as was attempted here), but to determine whether the scope claimed is patentable or not.

DECISION

The petition is **GRANTED**. **In view of this decision the last Office action is withdrawn as incomplete and response thereto is not required. The Notice of Appeal filed May 27, 2005 is held in abeyance uintil such time as a proper Final Office action has been mailed. It may be reactivated by filing of a new Notice of Appeal for which no fee will be due.**

The application will be forwarded to the examiner for preparation of a new Office action.

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

George C. Elliott

George C. Elliott
Director, Technology Center 1600

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)
6,767,147	2004-07-27	10/171,721	2002-06-14	AMANO-002A

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

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

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

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Bruce B. Brunda/	Date (YYYY-MM-DD)	2009-12-21
Name	Bruce B. Brunda	Registration Number	28497

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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Alexandria, VA 22313-1450
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In re Patent No. 6767147
Issue Date: July 27,2004
Application No. 10171721
Filed: June 14,2002
Attorney Docket No. AMANO-002A

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

This is a decision on the electronic petition, filed December 21,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 21,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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Paper No. 8

Michael E. Buonocore
51 Thompson Street
Milford, CT 06460

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OFFICE OF PETITIONS

In re Application of
Michael E. Buonocore
Application No. 10/171,782
Filed: June 17, 2002
Attorney Docket No. N/A

ON PETITION

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

The petition is **GRANTED.**

A Notice to File Corrected Application Papers ("Notice") was mailed to applicant on July 18, 2002, which set a two-month period within which to submit a reply. No reply having been received, the application became abandoned on September 19, 2002.

Petitioner asserts that a reply was timely filed has provided evidence to establish that fact. However, it is noted, through petitioner's own admission, that he did not use a post card receipt itemizing the papers sent, which could further support petitioner's assertion.

The showing of record is sufficient to establish to the satisfaction of the Commissioner that the delay in submitting a reply to the outstanding Notice was unavoidable.

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) 306-3475.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. None

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

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APR 27 2004
OFFICE OF PETITIONS

In re Application of
Pei Chih Lei
Application No. 10/171,792
Filed: June 17, 2002
Attorney Docket No. 2450-0230P
Title: MICROPROCESSOR-HEAT SLUG FASTENING FRAME

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

This is a decision on the petition filed December 12, 2003, pursuant to 37 C.F.R. §1.137(f), to revive the above-identified application.

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

(1) Notification of the filing of an application in a foreign country or under a multinational treaty that requires 18 month publication[1];
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m), and;
(3) A statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

Petitioner has incorrectly asserted that the instant application was filed on May 30, 2002[2]. The record discloses that this application was filed June 17, 2002. However, the United States Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in either an international application or a foreign country.

A Request and Certification under 35 USC 122(b)(2)(B)(i) was included on filing, certifying that "the invention disclosed in the attached **application has not and will not** be the subject of an application filed in another country, or under a multilateral agreement, that requires publication at eighteen months after filing (emphasis added)." This request was signed by the Petitioner.

On December 12, 2003, a Request to Rescind the Nonpublication Request was filed along with the instant petition. Petitioner thus requested under 35 USC 122(b)(2)(B)(ii) that the Request and Certification under 35 USC 122(b)(2)(B)(i) be rescinded and the application revived because this application became

1 See PTO/SB/36 and paragraph on PTO/SB/64a for further information. Both may be downloaded at http://www.uspto.gov/web/forms/index.html.
2 Petition, page 1.

abandoned for failure to notify the Office within 45 days of the filing of a corresponding international or foreign application. With the instant petition, petitioner states that a foreign application corresponding to the instant application was filed on **June 4, 2002**, which date is **prior** to the date of filing the instant application.

The instant nonprovisional application did not become abandoned as a result of the published foreign application filed prior to the present application. In this regard, 35 USC 122(b)(2)(B)(iii) states:

An applicant who has made a request under clause (i) but who **subsequently files, in a foreign country or under a multilateral international agreement** specified in clause (i), an application directed to the invention disclosed in the application filed in the Patent and Trademark Office, shall notify the Director of such filing not later than 45 days **after the date of the filing of such foreign or international application**. A failure of the applicant to provide such notice within the prescribed period shall result in the application being regarded as abandoned, unless it is shown to the satisfaction of the Director that the delay in submitting the notice was unintentional (emphasis added).

The facts of this case are that the subject application was filed on June 4, 2002, and the corresponding application was filed on June 17, 2002. The statute does not provide for the situation where a certification under 35 USC 122(b)(2)(B)(i) was made, despite the fact that an application was previously filed in another country or under a multilateral agreement. The statute at 35 USC 122(b)(2)(B)(iii) only provides for revival in the situation where a certification was made under 35 USC 122(b)(2)(B)(i) at the time of filing the application and an application was subsequently filed in a foreign country without notifying the Office within 45 days of the filing thereof.

In view of the above, and since this application did not become abandoned pursuant to the provisions of 35 USC 122(b)(2)(B)(iii), a petition to revive under the provisions of 37 CFR 1.137(f)is inappropriate and must be dismissed.

Therefore, the petition is **DISMISSED AS INAPPROPRIATE**.

The previous Request and Certification under 35 U.S.C. §122(b)(2)(B)(i), filed with the original application papers, has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of August 5, 2004 accompanies this decision on petition.

The petition fee of $665.00 will not be refunded, as this petition was not necessitated by any error on the part of the Office. Payment of the $665.00 petition fee is acknowledged.

After the mailing of this decision, the application file will be forwarded to the Office of Patent Publications for further processing into a patent.

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
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PO BOX 747
FALLS CHURCH VA 22040-0747

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OFFICE OF PETITIONS

In re Application of
Pei Chih Lei

Application No. 10/171,792
Patent No. 6,781,836
Filed: June 17, 2002
Issue Date: August 24, 2004
Attorney Docket No. 2450-0230P
Title: MICROPROCESSOR-HEAT SLUG FASTENING FRAME

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

This is a decision on the renewed petition filed August 10, 2004, pursuant to 37 C.F.R. §1.137(f), to revive the above-identified application.

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

(1) Notification of the filing of an application in a foreign country or under a multinational treaty that requires 18 month publication[1];
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m), and;
(3) A statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The original petition was filed December 12, 2003, and was dismissed via the mailing of a decision on April 27, 20003, as the Petitioner informed the Office that the foreign filing occurred prior to the date of filing the instant application.

A two-month extension of time has been charged to Petitioner's Deposit Account, as authorized in the petition, to make timely this response.

With the renewed petition, Petitioner sets forth that he included both the wrong dates and the wrong country name in his previous petition.

Petitioner has now asserted that although the instant application was filed on June 17, 2002, along with the assertion that "the invention disclosed in the attached **application has not and**

1 See PTO/SB/36 and paragraph on PTO/SB/64a for further information. Both may be downloaded at http://www.uspto.gov/web/forms/index.html.

will not be the subject of an application filed in another country, or under a multilateral agreement, that requires publication at eighteen months after filing," the subject matter of the instant application was disclosed in foreign filing on July 19, 2002.

The petition fee, the proper statement of unintentional delay, and the notice of rescission were submitted with the original petition

With the renewed petition, Petitioner has submitted the proper notification of a foreign filing.

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

As such, the renewed petition is **GRANTED**.

After the mailing of the instant decision, the application will be forwarded to Files Repository.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0011. Please note that on approximately September 28, 2004, the Office of Petitions will relocate to the new PTO location in Alexandria. Although the mailing address will remain the same, the general phone number for the Office of Petitions which should be used for status requests will change to 571-272-3282, and the telephone number for the undersigned will change to 571-272-3225.

Paul Shanoski

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
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PARKWAY 109 OFFICE CENTER
328 NEWMAN SPRINGS RD
P O BOX 8489
RED BANK NJ 07701

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OFFICE OF PETITIONS

In re Application of :
Stefanus Theodorus A.G. Beumer :
Application No. 10,171,800 :
Filed: June 14, 2002 :
Attorney Docket No. Revab-2(P53989US00) :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1], filed May 2, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office Action mailed August 30, 2004. A response was filed February 28, 2005 (certificate of mail date) with a request for an extension of time but by Advisory Action of March 16, 2005, petitioner was advised that the response did not place the application in condition for allowance. This application became abandoned on December 1, 2004. Accordingly, a Notice of Abandonment was mailed March 31, 2005.

---

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

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

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

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

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

Petitioner has submitted an Request for Continued Examination (RCE). The previously submitted amendment serves as the submission required under 37 CFR 1.114.

The application is being forwarded to Technology Center 3611 for processing of the RCE.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OFFICE OF PETITIONS

In re Application of :
Stefanus Theodorus A.G. Beumer :
Application No. 10/171,800 : ON PETITION
Filed: June 14, 2002 :
Attorney Docket No.: **Revab-2 (P53989US00)** :

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 August 25, 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 November 28, 2005. Accordingly, a Notice of Abandonment was mailed on April 6, 2006.

This matter is being referred to Technology Center 3611 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

---

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 2023
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Paper No. 9

William S. Galliani
COOLEY GODWARD LLP
Pattent Group
Five Palo Alto Square
3000 El Dcamino Real
Palo Alo, Ca 94306-1255

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Technology Center 2100

In re Application of:	)	
Gupta et al.	)	
Application No. 10/171,805	)	**DECISION ON REQUEST FOR**
Filed: June 13, 2002	)	**WITHDRAWAL AS ATTORNEY**
For: VIRTUAL INTRUSION DETECTION SYSTEM AND METHOD OF USING SAME	)	

This is a decision on the Request To Withdraw from Representation filed June 2, 2003.

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

The request filed June 2, 2003 meets all the requirements. Accordingly the request is **GRANTED**.

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

James R. Matthews

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

cc: Kevin J. Silka
SILICON VALLEY IP GROUP
95 South Market Street, Suite 420
San Jose, CA 95113

UNITED STATES PATENT AND TRADEMARK OFFICE

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FEB - 7 2005

Catherine Anne Whealy
P O Box 220
Tolar TX 76476

In re Application of:
Theodorus A. Segers
Serial No.: 10/171,827
Filed: June 17, 2002
Attorney Docket No.: none

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to the petition under 37 CFR § 1.181, filed October 16, 2004, for withdrawal of abandonment of the above-identified application based on failure to receive an Office action.

A review of the file history shows that the examiner mailed an Office action to applicant on July 8, 2003, setting a three month shortened statutory period for reply. The Office action was mailed to Catherine Anne Whealy, Proprietary Rights International, 1513 Melody Lane, Roanoke, TX 76262. On August 18, 2004, the examiner mailed a Notice of Abandonment to the same address for failure to respond to the outstanding Office action.

Applicant states that the Office action of July 8, 2003 was never received and provides docketing records as evidence of non-receipt as required by M.P.E.P. 711.03(c). Additionally, applicant indicates that the agent of record changed addresses and a forwarding address was filed with the local US Post Office in September 2003. However, no formal change of address was filed with the USPTO until October 4, 2004. Thus, the Office action of July 8, 2003 was properly mailed to the correspondence address of record at that time.

The petition is **DENIED**. Applicant may file a petition under 37 CFR 1.137 (b) for revival of the application. Any new or renewed petition must be filed within TWO MONTHS of the mail date of this decision.

The application remains abandoned.

Should there be any questions about this decision please contact Marianne C. Seidel, by letter addressed to Director, TC 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel for

Bruce Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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NOV 24 2004

Catherine Anne Whealy
P.O. Box 220
Tolar TX 76476

In re Application of:
Theodorus A. Segers
Serial No.: 10/171,829
Filed: June 17, 2002
Attorney Docket No.: none

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to the petition under 37 CFR § 1.181, filed October 16, 2004, for withdrawal of abandonment of the above-identified application based on failure to receive an Office action.

A review of the file history shows that the examiner mailed an Office action to applicant on July 8, 2003, setting a three month shortened statutory period for reply. The Office action was mailed to Catherine Anne Whealy, Proprietary Rights International, 1513 Melody Lane, Roanoke, TX 76262. On August 17, 2004, the examiner mailed a Notice of Abandonment to the same address for failure to respond to the outstanding Office action.

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Marianne C. Seidel for

Bruce Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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FEB - 7 2005

Catherine Anne Whealy
P O Box 220
Tolar TX 76476

In re Application of:
Theodorus A. Segers
Serial No.: 10/171,830
Filed: June 17, 2002
Attorney Docket No.: none

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to the petition under 37 CFR § 1.181, filed October 16, 2004, for withdrawal of abandonment of the above-identified application based on failure to receive an Office action.

A review of the file history shows that the examiner mailed an Office action to applicant on July 8, 2003, setting a three month shortened statutory period for reply. The Office action was mailed to Catherine Anne Whealy, Proprietary Rights International, 1513 Melody Lane, Roanoke, TX 76262. On August 17, 2004, the examiner mailed a Notice of Abandonment to the same address for failure to respond to the outstanding Office action.

Applicant states that the Office action of July 8, 2003 was never received and provides docketing records as evidence of non-receipt as required by M.P.E.P. 711.03(c). Additionally, applicant indicates that the agent of record changed addresses and a forwarding address was filed with the local US Post Office in September 2003. However, no formal change of address was filed with the USPTO until October 4, 2004. Thus, the Office action of July 8, 2003 was properly mailed to the correspondence address of record at that time.

The petition is **DENIED**. Applicant may file a petition under 37 CFR 1.137 (b) for revival of the application. Any new or renewed petition must be filed within TWO MONTHS of the mail date of this decision.

The application remains abandoned.

Should there be any questions about this decision please contact Marianne C. Seidel, by letter addressed to Director, TC 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne Seidel for

Bruce Kisliuk
Director, Technology Center 1600

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OFFICE OF PETITIONS

In re Application of Snell et al. Application No. 10/171,874 Filed: June 14, 2002 For: COMPUTERIZED SYSTEM AND METHOD OF PERFORMING INSURABILITY ANALYSIS Attorney Docket No.: RTP 8013 Pub. No.: US 2003/0233260 A1 Pub. Date: December 18, 2003	DECISION GRANTING PETITION

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on January 26, 2004, which is also being treated as a petition to accord the application a filing date of June 14, 2002 with page 49 as part of the original disclosure.

The request and the petition are granted.

Applicants request that the application be republished because the patent application publication omits claims 35-39, which were included on page 49 of the application as filed.

A copy of page 49 was submitted by facsimile on November 13, 2002.

In support of the request for corrected publication, applicants submitted a copy of their stamped post card receipt on May 4, 2004. Applicants' stamped post card receipt acknowledges receipt in the United States Patent and Trademark Office on June 14, 2002 of inter alia, 51 total pages of application and 40 claims. The evidence has been considered and it is persuasive that page 49 was filed on June 14, 2002.

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

The application is being forwarded to Office of Initial Patent Examination for further processing with a filing date of June 14, 2002, using the copy of the application papers filed on June 14, 2002 and the copy of page 49 supplied on November 13, 2002.

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

Eugenia Jones

Eugenia Jones
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

RTP 8013 (formerly GNA 1838)
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Art Unit 2161

Application of Snell et al.
Serial No. 10/171,874
Filed June 14, 2002
Confirmation No. 1015
For COMPUTERIZED SYSTEM AND METHOD OF PERFORMING INSURABILITY ANALYSIS

May 4, 2004

TO THE COMMISSIONER FOR PATENTS,

SIR:

LETTER TO THE UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO).

Pursuant to a telephone conference between USPTO employee Mark Polutta and Applicants' attorney Robert M. Bain on April 30, 2004, Applicants are providing additional information regarding the Request for Corrected Publication filed on January 23, 2004.

* On June 14, 2002, Applicants filed the above-noted patent application. Enclosed herewith is a copy of the 391 postcard stamped as received on July 1, 2002 by the USPTO.

On November 8, 2002, Applicants' attorney received a telephone call from Ms. Young notifying him that page 49 of the filed patent application was missing from the USPTO copy.

On November 13, 2002, Applicants' attorney provided a copy of page 49 to Ms. Young in
* response to her telephone request. Enclosed is a copy of the facsimile cover sheet showing successful transmission.

* As filed on June 14, 2002, the application included 40 claims per the filing receipt (copy enclosed). The published patent application omits claims 35-39. Applicants respectfully request a corrected or revised patent application publication pursuant to 37 C.F.R. § 1.221(b). In particular, as this material mistake by the USPTO is apparent from the USPTO records, Applicants hereby request the corrected or revised patent application publication including the omitted claims solely at the expense of the USPTO.

Respectfully submitted,

James J. Barta Jr.

James J. Barta, Jr., Reg. No. 47,409 for
Robert M. Bain, Reg. No. 36,736
SENNIGER, POWERS, LEAVITT & ROEDEL
One Metropolitan Square, 16th Floor
St. Louis, Missouri 63102
(314) 231-5400

RMB

(391)

US APPLICATION 11045 U.S. PTO

RECEIVED JUL 0 1 2002

Attorney 10/171874

File CDA 1838

06/14/02

Client Name

Application of Sneed et al.

Title Computerized System And Method Of Performing Drivability Analysis

Express Mail No. EL 946581943 US

Application

(✓) Utility

(40) Number of claims

(5) Sheets of drawings

(51) Total Pages of Application

(✓) Abstract

(✓) Application Data Sheet

(✓) Other Assignment

(✓) Transmittal LTPTO

(✓) Fee Transmittal Form (in duplicate)

(✓) Combined Declaration/Power of Attorney

(✓) Filing Fee $1140 (check enclosed)

( ) Preliminary Amendment

Filing Date Verified and Serial Number Recorded by _____ (docketer)

IF FILING DATE OF POST CARD DOES NOT MATCH EXPRESS MAIL, <u>HAND DELIVER</u> TO SECRETARY/ATTORNEY IMMEDIATELY

Filing Date Discrepancy Acknowledged by _____ (secy) and _____ (atty)

Law Offices of

SENNIGER, POWERS, LEAVITT AND ROEDEL

One Metropolitan Square, 16th Floor
St. Louis, Missouri 63102

Telephone (314) 231-5400
Facsimile (314) 231-4342

FACSIMILE TRANSMITTAL COVER SHEET

DATE: 11/13/02 **ATTORNEY DOCKET NUMBER:** GNA 1838
PTO FACSIMILE NUMBER: (703) 305-7687

PLEASE DELIVER THIS FACSIMILE TO: Ms. Young
THIS FACSIMILE IS BEING SENT BY: Robert M. Bain
NUMBER OF PAGES: 02 **INCLUDING COVER SHEET**

TIME SENT: _____ **OPERATOR'S NAME** C. Jonell Layton, PLS

CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being facsimile transmitted to the Patent and Trademark Office on the date shown below.

Robert M. Bain
Typed or printed name of person signing certification

Robert M Bain 11/13/02
Signature Date

Type of paper transmitted: Duplicate page 49 of specification

Applicant's Name: Snell et al.

Serial No. (Control No.): 10/171,874 **Examiner:** _____

Filing Date: 06/14/02 **Art Unit:** 2161

Application Title: Computerized System and Method of Performing Insurability Analysis

IF YOU DO NOT RECEIVE ALL PAGES CLEARLY, CALL BACK AS SOON AS POSSIBLE. CONFIRMING NUMBER IS (314) 231-5400.

P.01

TRANSACTION REPORT

NOV-13-2002 WED 09:52 AM

FOR: SENNIGER POWERS LEAVITT 3145881357

DATE	START	RECEIVER	TX TIME	PAGES	TYPE	NOTE	M#	DP
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TOTAL : 42S PAGES: 2

Law Offices of

SENNIGER, POWERS, LEAVITT AND ROEDEL

One Metropolitan Square, 16th Floor
St. Louis, Missouri 63102

Telephone (314) 231-5400
Facsimile (314) 231-4342

FACSIMILE TRANSMITTAL COVER SHEET

DATE: 11/13/02 **ATTORNEY DOCKET NUMBER:** GNA 1838
PTO FACSIMILE NUMBER: (703) 305-7687

PLEASE DELIVER THIS FACSIMILE TO: Ms. Young
THIS FACSIMILE IS BEING SENT BY: Robert M. Bain
NUMBER OF PAGES: 02 **INCLUDING COVER SHEET**

TIME SENT: _____ **OPERATOR'S NAME** C. Jonell Layton, PLS

CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being facsimile transmitted to the Patent and Trademark Office on the date shown below.

Robert M. Bain
Typed or printed name of person signing certification

FEB 0 2 2004
RTP 8013

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
10/171,874	06/14/2002	3626	1010	~~SNA-1838~~ RTP 8013	5	40	2

CONFIRMATION NO. 1015

RMB

000321
SENNIGER POWERS LEAVITT AND ROEDEL
ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS, MO 63102

CORRECTED FILING RECEIPT

OC000000011772929

Date Mailed: 01/28/2004

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)

David L. Snell, Alton, IL;
Susan L. Wehrman, Ballwin, MO;

Assignment For Published Patent Application

Reinsurance Group of America Corporation;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 07/19/2002

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Computerized system and method of performing insurability analysis

spec:

dew:

Formality Review Claims Count Sheet

Case No. 10 Phuong

Date: ___/___/___

No.	As Filed Ind.	As Filed Dep.	No.	As Filed Ind.	As Filed Dep.	No.	As Filed Ind.	As Filed Dep.	No.	As Filed Ind.	As Filed Dep.
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T. Dep	38	T. Dep		T. Dep		T. Dep	
Total	40	Total		Total		Total	

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: PA

DATE : 08/31/05

TO SPE OF : ART UNIT 3751

SUBJECT : Request for Certificate of Correction on Patent No.: 10/171887 6837284

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.

ATTN: Please respond and send to Scan
Thank You For Your Assistance

A Green

Angela Green
Certificates of Correction Branch
Tel. No. 703-305-9380 ext. 123

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

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

Comments:

Justine Yu — **SPE**

3751 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER OF PATENTS

August 3, 2005

Paul J. Filbin
Leydig, Voit, Mayer
Two Prudential Plaza, Suite 4900
180 North Stetson
Chicago, IL 60601-6780

In re Application of:
Paul D. Jezek
Serial No: 10/171,892 On Petition
Filing Date: June 14, 2002
For: **HIGH PRESSURE RECIPROCATING PUMP**

In response to the petition received on March 1, 2004, to withdraw the holding of abandonment in the above application.

The petition is Granted.

The above-identified application became abandoned for failure to reply with the meaning of 37 C.D.R 1.113 in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed July 18, 2002. Which set forth a shortened statutory period for reply of two months. Accordingly, the above-identified application became abandoned September 19, 2002. The notice of abandonment was mailed on January 20, 2004.

The evidence submitted is sufficient to establish that the petitioners responded to the Notice to File Missing Part of Nonprovisional Application on September 26, 2002.

The application has been completed for release to Technology Center 3746.

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

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

Doshie E. Day
Program Management Assistant
Office of Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JENNIFER M. SLONAKER
BARLEY, SNYDER, SENFT & COHEN, LLC
126 EAST KING STREET
LANCASTER, PA 17602

COPY MAILED

NOV 16 2005

OFFICE OF PETITIONS

In re Application of	:	
Stan Kroll	:	
Application No. 10/171,914	:	DECISION ON PETITION
Filed: June 14, 2002	:	TO WITHDRAW
Attorney Docket No. 25239-902	:	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 19, 2004 and December 2, 2004.

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).

Less than thirty (30) days remain between approval of withdrawal and the later of the expiration date of a time period for the 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).

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

Irvin Dingle for

Amelia Au
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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STANLEY J. KROLL
208 WEST KING STREET
P.O. BOX 396
EAST BERLIN, PA 17316

COPY MAILED
FEB 08 2006
OFFICE OF PETITIONS

In re Application of :
Stan kroll :
Application No. 10/171,914 :
Filed: June 14, 2002 : ON PETITION
For: PLAY FOOTWEAR :

This is a decision on the Petition to Revive Under 37 CFR 1.137/Request to Withdraw Holding of Abandonment Under 37 CFR 1.181, filed December 28, 2004. The delay in treating this petition is regretted.

This Petition under 37 CFR 1.181 is hereby **dismissed**.

The petition under 37 CFR 1.137 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 "Request for Reconsideration of 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 non-final Office action, mailed June 2, 2004. The Office action set a three (3) month period for reply from the mail date of the Office action. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on December 3, 2004. A Notice of Abandonment was mailed December 17, 2004.

The petition under 37 CFR 1.181

Applicant files the instant petition and requests withdrawal of the holding of abandonment; however, Applicant has not provided any justification to support the request. Applicant is advised that a petition to withdraw the holding of abandonment is appropriate where "an applicant contends that the application is not in fact abandoned (e.g., there is disagreement as to the sufficiency of the reply, or as to controlling dates), a petition under 37 CFR 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action, and such petition does not require a fee. Where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment), a petition under 37 CFR 1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application. (Emphasis supplied).

Here, Applicant does not disagree as to the sufficiency of the reply to the non-final Office action. In fact, no reply to the non-final Office action has been filed. Nor does Applicant disagree as to the date that the reply was due. Further to this, a review of the record reveals that Applicant was informed in a letter from this Office mailed on November 23, 2004, that "a written response to the June 2 Office action must be filed by December 2, 2004." November 23, 2004 Letter at p.1.

Accordingly, the petition to withdraw the holding of abandonment is dismissed as inappropriate.

A Grantable Petition Under 37 CFR 1.137(a)

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (**1**) the required reply (unless previously filed), which may met by the filing of a notice of appeal and the requisite fee; a continuing application; an amendment or request for reconsideration which *prima facie* places the application in condition for allowance, or a first or second submission under 37 CFR 1.129(a) if the application has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 USC 120, 121 and 365(c); (**2**) the petition fee as set forth in 37 CFR 1.17(l); (**3**) a showing to the satisfaction of the

Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (**4**) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

This petition lacks items (**1**), (**2**) and (**3**) above.

As to item (**1**), Applicant has failed to provide the required reply. Applicant must file a reply to the non-final Office action that was mailed to Applicant June 2, 2004 (usually in the form of an amendment to the application).

Applicant is advised that the required reply must be filed before a petition may be granted.

As to item (**2**), Applicant is advised that the fee for filing a petition under 37 CFR 1.137(a) is $250.00. Before the petition may be considered on its merits, the petition fee must be submitted.

As to item (**3**), Applicant is advised that he must account for the entire period of the delay in filing a GRANTABLE petition. That is, the period that Applicant must account for is from the time the application became abandoned, on September 3, 2004, until now. Applicant must explain why the delay in responding was, and remains, unavoidable.

A further review of the file reveals that, in the November 23, 2004 Letter, Applicant was also strongly advised to contact a registered patent attorney. The advice is reiterated. A cursory review of Applicant's assertions reveals that Applicant is unable to meet the requirements for a grantable petition under 37 CFR 1.137(a); and that a more appropriate venue is under 37 CFR 1.137(b). However, both the fee and the requirements for granting the petition under 37 CFR 1.137(b) are different than that under 37 CFR 1.137(a). Again, this Office cannot assist in the preparation of patent application papers.

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

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

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

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

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

APR 1 0 2003

Technology Center 2100

Paper No. 4

CARR LAW FIRM, L.L.P.
670 Founders Square
900 Jackson Street
Dallas, TX 75202

In re Application of: Christopher James DEAN	)	
Application No. 10/171,916	)	
Filed: June 14, 2002	)	
For: SYSTEM AND METHOD FOR	)	
RETRIEVING INFORMATION	)	**DECISION ON REQUEST FOR**
FROM DISPARATE INFORMATION	)	**WITHDRAWAL AS ATTORNEY**
SOURCES AND INTEGRATING	)	
THE INFORMATIONIN	)	
ACCORDANCE WITH A DOMAIN	)	
MODEL	)	

This is a decision on the Request To Withdraw from Representation filed March 5, 2003 and the Supplemental Request To Withdraw filed March 8, 2003.

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

The request is **GRANTED**.

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

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

cc: Mr. Jody Roberts
Kiboga Systems, Inc.
15303 Dallas Parkway, Suite 1150
Dallas, Texas 75001

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.
10/171,927	06/14/2002	Gregg A. Dean	D-2903CON	3718

61535 7590 10/10/2007
FRANK J. UXA
STOUT, UXA, BUYAN & MULLINS, LLP
4 VENTURE, SUITE 300
IRVINE, CA 92618

EXAMINER
SUGARMAN, SCOTT J

ART UNIT	PAPER NUMBER
2873	

MAIL DATE	DELIVERY MODE
10/10/2007	PAPER

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

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. DEAN, GREGG A.	:	
Issue Date: August 2, 2005	:	**DECISION GRANTING**
Appl No.: 10/171,927	:	**PETITION**
Filed: June 14, 2002	:	*37 CFR 1.324*
For: FRANK J. UXA	:	
STOUT, UXA, BUYAN & MULLINS, LLP	:	
4 VENTURE, SUITE 300	:	
IRVINE CA 92618	:	

This is a decision on the petition filed May 15, 2007 to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

Ricky L. Mack
Supervisory Patent Examiner
Art Unit 2873
Technology Center 2800

FRANK J. UXA
STOUT, UXA, BUYAN & MULLINS, LLP
4 VENTURE, SUITE 300
IRVINE, CA 92618

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BELL, BOYD & LLOYD, LLC
P.O. BOX 1135
CHICAGO IL 60690-1135

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JUL 1 5 2005

OFFICE OF PETITIONS

In re Application of :
Koichiro Hinokuma et al :
Application No. 10/171,935 :
Filed: June 14, 2002 :
Attorney Docket No. 112857-335 :

ON PETITION

This is a decision on the petition, filed July 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 June 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 1745 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner of Patents

Staas & Halsey LLP
1201 New York Avenue, NW
Suite 700
Washington, DC 20005

MAILED

AUG 02 2005
Director's Office
Group 3700

In re Application of	:	
HOH	:	
Serial No.10/171,998	:	Decision on
Filed June 17, 2002	:	Petition
For: Cooking Container and Microwave Oven Having Such Container	:	

A Notice of Abandonment for the above-identified application was mailed January 18, 2005. Applicant filed a petition to withdraw the Holding of Abandonment under 37 CFR 1.181 on March 14, 2005. In the petition applicant indicates that an amendment was timely filed. However, the amendment had the heading of Proposed Amendment. The amendment was signed and complied with all the requirements of 37 CFR 1.121. Applicant indicates that the examiner did not consider the amendment until after the time period for response had expired and that the examiner indicated that the amendment was not constitute a proper reply. After a review of the file it is understood that the amendment was properly made and entered into the file history. The examiner has unreasonably viewed the amendment as an improper reply.

In view of the above, the Notice of Abandonment mailed January 18, 2005 is in error. The **Holding of Abandonment is Withdrawn**. This application is being forwarded to the examiner for appropriate action. The examiner may still feel that the amendment is non-compliant and require a corrected amendment without reference to Proposed Amendment before acting on the application.

Richard A. Bertsch, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

COPY MAILED

JAN 0 2 2009

OFFICE OF PETITIONS

In re Application of :
NUMRICH, et al. :
Application No. 10/172,017 :
Filed: June 17, 2002 :
Attorney Docket No. **224312US0DIV** :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 9, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of June 18, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is September 19, 2007.

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

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

This application is being referred to Technology Center AU 1794 for processing of the RCE filed March 26, 2008 for appropriate action by the Examiner in the normal course of business and on the information disclosure statement filed February 21, 2008 in accordance with 37 CFR 1.114.

Brian W. Brown
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

DEC 2 4 2002

Technology Center 2100

Paper No. 3

King & Spalding
191 Peachtree Street, N.E.
Atlanta, GA 30303-1763

In re Application of: Norman Gilinsky.	)	
Application No. 10/172,085	)	
Filed: June 13, 2002	)	**DECISION ON REQUEST FOR**
For: METHOD AND SYSTEM FOR	)	**WITHDRAWAL AS ATTORNEY**
CREATING AND IMPLEMENTING	)	
DYNAMIC GRAPHIC MEDIA	)	

This is a decision on the Request To Withdraw from Representation filed September 4, 2002.

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

The request is **GRANTED**.

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

OIPE JC93
OCT 2 8 2002
PATENT & TRADEMARK OFFICE

#6

5013.1001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re:	Application of:	Distler, et al.
	Serial No.:	10/172,086
	Confirmation No.:	1674
	Group Art Unit:	1645
	Filed:	June 13, 2002
	For:	**METHOD AND NUCLEIC ACIDS FOR THE DIFFERENTIATION OF PROSTATE TUMORS**

BOX MISSING PARTS
Asst. Commissioner for Patents
Washington, D.C. 20231

October 24, 2002

RESPONSE TO NOTICE TO FILE MISSING PARTS

Sir:

In response to the Notice to File Missing Parts dated July 24, 2002, a copy of which is enclosed, applicants enclose a Declaration/Power of Attorney executed by each of the inventors. Also enclosed is a certified copy of the priority document for this application, German Patent Application No. 101 28 508.6, filed on June 14, 2001.

Applicants have not previously established small entity status in this case. However, applicants, in accordance with 37 CFR §1.27 (c), now hereby assert an entitlement to small entity status for this application.

Applicants have also enclosed a petition for a one (1) month extension of time under 37 CFR §1.136(a) and a check in the amount of $120.00 covering the filing surcharge for late oath or declaration ($65.00) and the one month extension fee ($55.00), both payable for a small entity. The due date for response has now been extended to October 24, 2002, and this response is

10/29/2002 BSAYASI1 00000046 10172086
02 FC:2251 55.00 OP

therefore timely filed.

If any additional fees are determined to be due at this time, the Assistant Commissioner is authorized to charge payment of the same to Deposit Account No. 50-0552.

Respectfully submitted,

DAVIDSON, DAVIDSON & KAPPEL, LLC

By: _____
Morey B. Wildes
Reg. No. 36,968

Davidson, Davidson & Kappel, LLC
485 Seventh Avenue - 14th Floor
New York, New York 10018
(212) 736-1940

OCT 2 8 2002
JC93
PATENT & TRADEMARK OFFICE

Please type a plus sign (+) inside this box → [+]

PTO/SB/21 (08-00)
Approved for use through 10/31/2002. 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.

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	10/172,086
Filing Date	June 13, 2002
First Named Inventor	Juergen DISTLER
Group Art Unit	1645
Examiner Name	Unassigned
Total Number of Pages in This Submission: 225	Attorney Docket Number: 5013.1001

ENCLOSURES *(check all that apply)*

- [x] Fee Transmittal Form
  - [x] Fee Attached
- [ ] Amendment / Response
  - [ ] After Final
  - [ ] Affidavits/declaration(s)
- [x] Extension of Time Request
- [ ] Express Abandonment Request
- [ ] Information Disclosure Statement
- [x] Certified Copy of Priority Document(s)
- [x] Response to Missing Parts/ Incomplete Application
  - [x] Response to Missing Parts under 37 CFR 1.52 or 1.53
- [ ] Assignment Papers *(for an Application)*
- [ ] Drawing(s)
- [ ] Licensing-related Papers
- [ ] Petition
- [ ] Petition to Convert to a Provisional Application
- [ ] Power of Attorney, Revocation Change of Correspondence Address
- [ ] Terminal Disclaimer
- [ ] Request for Refund
- [ ] CD, Number of CD(s) _____
- [ ] After Allowance Communication to Group
- [ ] Appeal Communication to Board of Appeals and Interferences
- [ ] Appeal Communication to Group *(Appeal Notice, Brief, Reply Brief)*
- [ ] Proprietary Information
- [ ] Status Letter
- [ ] Other Enclosure(s) *(please identify below)*:

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Name	Davidson, Davidson & Kappel, LLC				
Address	485 Seventh Avenue, 14th Floor				
City	New York	*State*	NY	*Zip Code*	10018
Country	USA	*Telephone*	(212) 736-1940	*Fax*	(212) 736-2427

Individual name	Morey B. Wildes
Signature	Morey Wildes
Date	October 24, 2002

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: Assistant Commissioner for Patents, Washington, D.C. 20231 on this date: October 24, 2002

Typed or printed name	Kareem Stevens		
Signature	Kareem Stevens	Date	October 24, 2002

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be send 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.

OIPE JC93
OCT 2 8 2002
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PTO/SB/17 (10-01)
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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

FEE TRANSMITTAL for FY 2002

Patent fees are subject to annual revision.

TOTAL AMOUNT OF PAYMENT ($) 120

Complete if Known	
Application Number	10/172,086
Filing Date	June 13, 2002
First Named Inventor	Juergen DISTLER
Examiner Name	Unassigned
Group / Art Unit	1645
Attorney Docket No.	5013.1001

METHOD OF PAYMENT (check all that apply)

☒ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

☐ Deposit Account:

Deposit Account Number: 50-0552

Deposit Account Name: Davidson, Davidson & Kappel, LLC

The Commissioner is authorized to: *(check all that apply)*
☐ Charge fee(s) indicated below ☐ Credit any overpayments
☒ Charge any additional fee(s) during the pendency of this application
☐ Charge fee(s) indicated below, **except for the filing fee** to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
101	740	201	370	Utility filing fee	
106	330	206	165	Design filing fee	
107	510	207	255	Plant filing fee	
108	740	208	370	Reissue filing fee	
114	160	214	80	Provisional filling fee	
				SUBTOTAL (1)	($) 0

2. EXTRA CLAIM FEES

			Extra Claims		Fee from below		Fee Paid
Total Claims		- ** =	0	X		=	0
Independent Claims		- ** =	0	X		=	0
Multiple Dependent				X		=	0

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description
103	18	203	9	Claims in excess of 20
102	84	202	42	Independent claims in excess of 3
104	280	204	140	Multiple dependent claim, if not paid
109	84	209	42	** Reissue independent claims over original patent
110	18	210	9	** Reissue claims in excess of 20 and over original patent
				SUBTOTAL (2) ($) 0

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
105	130	205	65	Surcharge - late filing fee or oath	65.00
127	50	227	25	Surcharge - late provisional filing fee or cover sheet.	
139	130	139	130	Non-English specification	
147	2,520	147	2,520	For filing a request for reexamination	
112	920*	112	920*	Requesting publication of SIR prior to Examiner action	
113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action	
115	110	215	55	Extension for reply within first month	55.00
116	400	216	200	Extension for reply within second month	
117	920	217	460	Extension for reply within third month	
118	1,440	218	720	Extension for reply within fourth month	
128	1,960	228	980	Extension for reply within fifth month	
119	320	219	160	Notice of Appeal	
120	320	220	160	Filing a brief in support of an appeal	
121	280	221	140	Request for oral hearing	
138	1,510	138	1,510	Petition to institute a public use proceeding	
140	110	240	55	Petition to revive – unavoidable	
141	1,280	241	640	Petition to revive – unintentional	
142	1,280	242	640	Utility issue fee (or reissue)	
143	460	243	230	Design issue fee	
144	620	244	310	Plant issue fee	
122	130	122	130	Petitions to the Commissioner	
123	50	123	50	Processing fee under 37 CFR 1.17 (q)	
126	180	126	180	Submission of Information Disclosure Stmt	
581	40	581	40	Recording each patent assignment per property (times number of properties)	
146	740	246	370	Filing a submission after final rejection (37 CFR § 1.129(a))	
149	740	249	370	For each additional invention to be examined (37 CFR § 1.129(b))	
179	740	279	370	Request for Continued Examination (RCE)	
169	900	169	900	Request for expedited examination of a design application	
				Other fee (specify) _____	
				SUBTOTAL (3)	($) 120

*Reduced by Basic Filing Fee Paid

SUBMITTED BY — Complete *(if applicable)*

Name (Print/Type)	Morey B. Wildes	*Registration No. Attorney/Agent)*	36,968	*Telephone*	(212) 736-1940
Signature	Morey B. Wildes			*Date*	October 24, 2002

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

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PN

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UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/172,086	06/13/2002	Jurgen Distler	5013.1001

CONFIRMATION NO. 1674

FORMALITIES LETTER

OC000000008502293

23280
DAVIDSON, DAVIDSON & KAPPEL, LLC
485 SEVENTH AVENUE, 14TH FLOOR
NEW YORK, NY 10018

Date Mailed: 07/24/2002

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of $130 for a non-small entity, must be submitted with the missing items identified in this letter.

Items Required To Avoid Processing Delays:

The item(s) indicated below are also required and should be submitted with any reply to this notice to avoid further processing delays.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$130** for a Large Entity

- **$130** Late oath or declaration Surcharge.

RECEIVED
JUL 29 2002
DAVIDSON, DAVIDSON & KAPPEL

10/29/2002 BSAYASI1 00000046 10172086

01 FC:2051 65.00 OP

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

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DAVIS WRIGHT TREMAINE, LLP/Seattle
1201 Third Avenue, Suite 2200
SEATTLE WA 98101-3045

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APR 14 2008

OFFICE OF PETITIONS

In re Application of Distler et al. Application No. 10/172086 Filing or 371(c) Date: 06/13/2002 Attorney Docket Number: 47675-77	DECISION ON PETITION

This is a decision in response to the "Petition for Revival of an Application for Patent Abandoned Unavoidably Under 37 CFR 1.137(a)," filed February 27, 2008, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, mailed November 21, 2007. The Office action set three (3) month period for reply. No response having been received, the application became abandoned on February 28, 2008. A Notice of Abandonment was mailed March 14, 2008.

The petition satisfies the requirements of 37 CFR 1.137(a) in that petitioner has supplied (1) the required reply in the form of the issue and publication fees; (2) the petition fee; and (3) a showing to the satisfaction of the Director that the entire delay was unavoidable. As to item (4), a terminal disclaimer is not required since this application was filed after June 8, 1995, and will not be entered. Petitioner may request a refund of the terminal disclaimer fee. A copy of this Decision should accompany the request.

The application will be referred to Publishing Division for processing into a patent in due course.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR
UNITED STATES PATENT AND TRADEMARK
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ALEXANDRIA, VA 22313-
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#8

Paper No. 8

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

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MAY 1 4 2003

OFFICE OF PETITIONS

In re Application of
KOLB et al.
Application No. 10/172,102
Filed: June 13, 2002
Attorney Docket No. 87534-4100

DECISION ON PETITION

This is a decision on the "Second Petition for Maintenance of Filing Date and Submission of Drawings," filed May 12, 2003, requesting that the application be accorded a filing date of June 13, 2002, with 11 sheets of drawings.

The application was deposited on June 13, 2002, without drawings. On July 17, 2002, the Office of Initial Patent Examination mailed a "Notice Of Incomplete," requiring drawings of applicants' invention and stating that the filing date would be the date of receipt of the omitted drawings. The specification filed on June 13, 2002, describes drawings containing Figures 1-11. In response, applicants filed the present petition. Applicants acknowledge that the application was submitted without the requisite drawings. However, applicants contend that the application as filed specifically incorporated by reference International Application PCT/IL00/00833.

A search of the official file reveals that on June 13, 2002, a specification was filed, which states in the first line that the present application is a "continuation of the US national stage designation of International application PCT/IL00/00833 filed December 14, 2000, the content of which is expressly incorporated herein by reference thereto."

Section 201.06(c) of the Manual for Patent Examining Procedure permits the entering of a portion of the prior application into a continuation or divisional application when the portion of the prior application was inadvertently omitted from the continuation or divisional application. Based on applicants' representation that the papers supplied with the original petition constitute a copy of the prior application, and the incorporation by reference statement appearing in the first line of the specification deposited on June 13, 2002, it is appropriate, on petition, to accord the application the requested filing date with 11 sheets of drawings.

Accordingly, the petition is **granted**.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of June 13, 2002, using the application papers filed on that date and the copy of 11 sheets of drawings submitted with the original petition.

Telephone inquiries specific to 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
WASHINGTON, D.C. 20231
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Paper No. 6

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

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AUG 3 0 2002

OFFICE OF PETITIONS

In re Application of
Kolb et al.
Application No. 10/172,102
Filed: June 13, 2002
Attorney Docket No. 87534-4100

DECISION GRANTING-IN-PART PETITION

This is a decision on the petition filed July 29, 2002, requesting that the above-identified application be accorded a filing date of June 13, 2002, with Figures 1-11 as a part of the original disclosure.

On June 13, 2002, applicants filed the above-identified application. However, on July 17, 2002, the Office of Initial Patent Examination mailed a "Notice Of Incomplete Application," requiring drawings of applicants' invention and stating that the filing date would be the date of receipt of the omitted drawings. It is noted that the specification filed on June 13, 2002, describes drawings containing Figures 1-11; however, it appears the United States Patent and Trademark Office (Office) did not receive these drawings.

In response, applicants filed the present petition, a copy of 11 drawing sheets consisting of Figures 1-11 and authorized payment of the petition fee.

As stated in MPEP § 601.01(f), it is the practice of the Office to treat an application that contains at least one process or method claim as an application for which a drawing is <u>not</u> 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 and the names of all the inventors.

This application contains method claims. 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).

MPEP § 601.01(g) states that if an application is filed without all of the drawing figure(s) referred to in the specification, a "Notice of Omitted Item(s)" is mailed indicating that the application has been accorded a filing date, but is lacking some of the figures of drawings described in the specification.

In view of the above, the requirement for drawings as set forth in the "Notice of Incomplete Application" mailed July 17, 2002, was sent in error and is hereby vacated. The application is accorded a filing date of June 13, 2002.

The petition is granted to the extent that the application will be accorded the filing date of June 13, 2002, without the drawings containing Figures 1-11 as a part of the original disclosure of this application.

No petition fee is necessary. The Office finance records indicate that the $130.00 petition fee was charged twice to the Deposit Account. The total amount of $260.00 will be credited to Deposit Account No. 50-1814.

The application file is being returned to the Office of Initial Patent Examination for further processing with a corrected filing date of June 13, 2002, indicating in the Office records that "0" sheets of drawings were present on filing, and the mailing of a corrected filing receipt.

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

Christina Tartera Donnell

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

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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JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

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SEP 15 2008
OFFICE OF PETITIONS

In re Application of	:	
DAI et al.	:	LETTER REGARDING PATENT
Application No. 10/172,118	:	TERM ADJUSTMENT
Filed: June 14, 2002	:	
Attorney Docket No. 9301-175-999	:	

This letter is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed April 11, 2008, which is properly treated as a request that the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy in accordance with applicants' duty of good faith and candor to the Office. Applicants state that the patent term adjustment should be corrected from 116 days to 115 days.

The request for review of the determination of 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 **115 days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

Applicants assert that they should have been assessed a delay of 91 days (not 90 days) under 37 CFR 1.704(b) for the filing of the reply to the Notice to File Missing Parts of Nonprovisional Application. The application history has been reviewed and it has been concluded that the determination of patent term adjustment under 35 U.S.C. 154(b) of 116 days is incorrect.

A review of record reveals that the PTA Calculations viewable on PAIR incorrectly reflects the date of mailing of the Notice to

File Missing Parts of Nonprovisional Application as August 7, 2002, instead of August 6, 2002. Thus, the date of August 6, 2002, instead of August 7, 2002, should have been used for calculating PTA.

Applicants filed their response on February 5, 2003, in excess of the three-month period from the mailing date of the Notice to File Missing Parts of Nonprovisional Application. See 37 CFR 1.704(b). Accordingly, the period of adjustment of the term of the patent should be reduced by 91 days, the number of days in the period beginning on the day after the date that is three months after the date of mailing of the Notice to File Missing Parts of Nonprovisional Application, November 7, 2002, and ending on the date the reply was filed, February 5, 2003. Therefore, the period of reduction of 90 days is being removed and the period of 91 days is being entered.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is **115 days** (419 days of Office delay - 304 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 as set forth in 37 CFR 1.18(e). Therefore, the $200.00 fee submitted on April 11, 2008, will be refunded to the Deposit Account. The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

Applicants are reminded that any delays by the Office pursuant to 37 CFR §§ 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR § 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries regarding this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Kery A Fries

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration

Enclosure: Copy of updated PAIR screen

Day : Friday
Date: 9/12/2008

PALM INTRANET

Time: 09:37:44

PTA Calculations for Application: 10/172118			
Application Filing Date:	06/14/2002	PTO Delay (PTO):	419
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	303
Post-Issue Petitions:	0	Total PTA (days):	115
PTO Delay Adjustment:	-1		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
106	09/12/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		1	
84	03/12/2008	MAIL NOTICE OF ALLOWANCE			
83	03/06/2008	ISSUE REVISION COMPLETED			
82	03/06/2008	DOCUMENT VERIFICATION			
81	03/06/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
80	03/06/2008	CASE DOCKETED TO EXAMINER IN GAU			
79	03/06/2008	NOTICE OF ALLOWABILITY			
78	12/04/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
71	12/04/2007	REFERENCE CAPTURE ON IDS			
70	12/04/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	67
69	12/04/2007	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
68	12/15/2007	DATE FORWARDED TO EXAMINER			
67	12/04/2007	RESPONSE AFTER NON-FINAL ACTION		89	62
66	12/04/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
65	12/04/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
64	12/05/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
63	03/08/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
62	06/06/2007	MAIL NON-FINAL REJECTION			
61	06/04/2007	NON-FINAL REJECTION			
60	02/09/2007	INFORMATION DISCLOSURE STATEMENT			

		CONSIDERED			
59.7	02/09/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	57
59	02/09/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
58	03/07/2007	DATE FORWARDED TO EXAMINER			
57	02/09/2007	RESPONSE AFTER NON-FINAL ACTION		92	53
56	02/09/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
55	02/13/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
54	02/06/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
53	08/09/2006	MAIL NON-FINAL REJECTION			
52	08/07/2006	NON-FINAL REJECTION			
51	05/16/2006	DATE FORWARDED TO EXAMINER			
50	05/08/2006	RESPONSE AFTER NON-FINAL ACTION		32	48
49	05/08/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
48	01/06/2006	MAIL NON-FINAL REJECTION			
47	01/05/2006	NON-FINAL REJECTION			
46	10/05/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
45	12/20/2005	CASE DOCKETED TO EXAMINER IN GAU			
44	11/02/2005	CASE DOCKETED TO EXAMINER IN GAU			
43	10/15/2005	DATE FORWARDED TO EXAMINER			
42	10/05/2005	RESPONSE AFTER NON-FINAL ACTION			
41	10/05/2005	NEW OR ADDITIONAL DRAWING FILED			
40	10/05/2005	REFERENCE CAPTURE ON IDS			
39.7	10/05/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
39	10/05/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
38	07/20/2005	CASE DOCKETED TO EXAMINER IN GAU			
37	07/05/2005	MAIL NON-FINAL REJECTION			
36	06/29/2005	NON-FINAL REJECTION			
35.7	04/26/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	33
35	04/26/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

34	05/05/2005	DATE FORWARDED TO EXAMINER			
33	04/26/2005	RESPONSE AFTER NON-FINAL ACTION			
32	02/22/2005	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
31	01/26/2005	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
30	01/26/2005	MAIL NON-FINAL REJECTION			
29	01/24/2005	NON-FINAL REJECTION			
28	11/08/2004	REFERENCE CAPTURE ON IDS			
27.7	11/08/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	25
27	11/08/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
26	11/22/2004	DATE FORWARDED TO EXAMINER			
25	11/08/2004	RESPONSE TO ELECTION / RESTRICTION FILED			
21	11/02/2004	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
20	10/06/2004	MAIL RESTRICTION REQUIREMENT	419		-1
19	10/01/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
18	09/13/2004	CASE DOCKETED TO EXAMINER IN GAU			
17.7	01/26/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	01/26/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	10/02/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
15	08/26/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
14.7	07/31/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	07/31/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	04/14/2003	CASE DOCKETED TO EXAMINER IN GAU			
12	02/19/2003	APPLICATION DISPATCHED FROM OIPE			
11	02/14/2003	APPLICATION IS NOW COMPLETE			
10	02/05/2003	ADDITIONAL APPLICATION FILING FEES		90	8
9	02/05/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
8	08/07/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			

5	07/25/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
4	07/25/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
3	07/05/2002	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
2	06/14/2002	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	06/14/2002	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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www.uspto.gov

THOMAS B. LUEBBERING
HOVEY WILLIAMS LLP
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KANSAS CITY, MO 64108

COPY MAILED

OCT 27 2005

OFFICE OF PETITIONS

In re Application of	:	
Jeffrey Stepp et al	:	
Application No. 10/172,151	:	ON PETITION
Filed: June 14, 2002	:	
Attorney Docket No. 31750	:	

This is a decision on the petition filed October 3, 2005, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Petitioner asserts that he timely submitted the Fee Transmittal Form PTOL-85 with an authorization to charge the Deposit Account for the issue fee and publication fee in response to the Notice of Allowance and Fee(s) due mailed on April 26, 2005. The Office is treating the petition filed on October 3, 2005, as a request to withdraw the holding of abandonment based on petitioner's assertion that he timely placed the reply in "Express Mail" pursuant to the provisions of 37 CFR 1.10.

Upon reviewing the Fee Transmittal Form PTOL-85 submitted on October 3, 2005, it does not appear that petitioner placed the Express Mail Label No. EV597772661US on the Fee Transmittal Form as originally filed. To be effective, the Express Mail Label Number must be placed on each separate paper and each fee transmittal either directly on the document or by a separate paper firmly and securely attached thereto. MPEP 513(III). Thus, petitioner has not provided sufficient evidence of the date of deposit of the Fee Transmittal Form PTOL-85 on June 28, 2005, in Express Mail Service.

It is also unclear that the following statement on the transmittal is of the USPTO: "The official date stamp of the United States Patent & Trademark Office hereon is evidence of the fact that subject instrument for the above-identified case has been received by the United States Patent & Trademark Office"

Since petitioner has not shown that the reply was timely filed with the USPTO, the petition is dismissed and the application remains abandoned.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

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NOV 0 3 2005

OFFICE OF PETITIONS

In re Application of	:	
Jeffrey Stepp et al	:	
Application No. 10/172,151	:	ON PETITION
Filed: June 14, 2002	:	
Attorney Docket No. 31750	:	

This is a decision on the petition under 37 CFR 1.10(e), filed October 3, 2005 and supplemented on November 1, 2005, which is being treated as a petition under 37 CFR 1.181(a), to Withdraw Holding of Abandonment of the above-identified application.

The petition is **GRANTED**.

The above-identified application was held abandoned for failure to submit the Issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed April 26, 2006, which set a statutory period for reply of three (3) months.

The petition states that "Applicants hereby petition the Director under 37 C.F.R. 1.10(e) to establish a filing date for correspondence that was deposited in USPS Express mail but never received by the United States Patent and Trademark Office (USPTO). The above-referenced application was abandoned for failing to pay the issue and publication fee within three months of a April 26, 2005, Notice of Allowance." To support this assertion, the petitioner has provided the Fee Transmittal PTOL-85 showing the Express Mail No. EV597772661US and a copy of the Express Mail label receipt no. EV597772661US, which shows that the date-in is June 28, 2005, which is in a timely fashion.

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

Since the reply was timely submitted, no petition fee is required.

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

The matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES
PATENT AND
TRADEMARK OFFICE

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

MAY 22 2003

#10

WOLF, GREENFIELD & SACKS, P.C.
FEDERAL RESERVE PLAZA
600 ATLANTIC AVENUE
BOSTON, MA 02210

In re Application of	:	
Allen J. Meglin et al	:	
Serial No. 10/172,160	:	DECISION ON PETITION
Filed: June 14, 2002	:	TO MAKE SPECIAL
For: Catheter and Method of Fluid Removal	:	
From A Body Cavity	:	

This is in response to applicants' petition filed May 2, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(a), based on applicant's health condition.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, IV with supporting documentation. Therefore the petition is hereby **GRANTED**.

The application will be forwarded to the examiner for action on the merits to commensurate with the decision.

Should there be any questions with regard to this letter please contact John E. Kittle by letter addressed to the Director, Technology Center 3700/2900, Washington, DC 20231, or by telephone at (703) 308-0873 or by facsimile transmission at (703) 308-3139.

John E. Kittle
Director
Technology Center 3700/2900

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Riverfront Office Park
One Main Street
Cambridge MA 02142

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MAR 0 8 2006

OFFICE OF PETITIONS

In re Application of	:	
Meglin et al.	:	
Application No. 10/172,160	:	DECISION ON PETITION
Filed: June 14, 2002	:	
Attorney Docket No. M1008-7017	:	

This is a decision on the petition under 37 CFR 1.182, filed September 28, 2005, to correct the spelling of the second inventor's name.

Petitioners requested that the Office correct the spelling of the second inventor's first name in its records due to a typographical error by petitioners. With the petition, petitioners submitted a $400.00 petition fee and a Supplemental Application Data Sheet, showing the correct spelling of the second inventor's first name.

"When a typographical or transliteration error in the spelling of an inventor's name is discovered during pendency of an application, a petition is not required, nor is a new oath or declaration under 37 CFR 1.63 needed." MPEP 605.04(b). The USPTO corrected its records to indicate the correct spelling of the inventor's name. Furthermore, on December 7, 2005, the Office printed and scanned a new bibliographic data sheet into the Image File Wrapper Database. Accordingly, the petition is **dismissed** as involving a moot issue. The $400.00 petition fee is unnecessary and will be credited to petitioners' Deposit Account.

This matter is being referred to the Office of Patent Publication.

Telephone inquiries regarding 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

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JJGJR.: 06-06

Paper No: __

KEVIN L. BASTIAN
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COPY MAILED

JUN 27 2006

OFFICE OF PETITIONS

In re Application of	:	
German, et al.	:	
Application No. 10/172,167	:	ON PETITION
Filed: 14 June, 2002	:	
Attorney Docket No.UCSF-038CON2	:	

This is a decision on the petition filed on 13 March, 2006, under 37 C.F.R. §1.47 as to submission and use of declarations under 37 C.F.R. §1.131.

For the reasons set forth below, the petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

NOTES:

(1) Any reply must include a renewed petition (and fee) must include a petition under 37 C.F.R. §1.47 and 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 "Petition under 37 C.F.R. §1.47";

(2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record indicates:

- the instant application was filed on 14 June, 2002;
- on 6 September, 2005, the Examiner mailed a non-final Office action to which Petitioner apparently wished to reply with, *inter alia*, declarations of the co-inventors under 37 C.F.R. §1.131 and/or §1.132 (see: MPEP §§715 and 716);
- on 13 March, 2006, Petitioner Nicholas V. Sherbina (Reg. No. 54,443) filed, *inter alia*, the instant petition, an oath/declaration signed by Dr. Goldfine (for himself and on behalf of) but without that of non-signing co-inventors Dr. Michael S. German (Dr. German) and Stephen Rothman (Dr. Rothman) and the statement Petitioner, which sets forth that the entire document of the declaration and attachments/exhibits thereto was sent to Drs. German and Rothman via Email for their review and signature as required by law, but that Drs. German and Rothman have failed to sign the declaration.

Thus, Petitioner seeks to use the model of the regulations at under 37 C.F.R. §1.47 to submit the declaration under 37 C.F.R. §1.131.

NOTE:

The transmission of documents via Email, while a common practice, can be problematic. Transmission and receipt of documents–whether in image, word-processing, spreadsheet or other form–can be affected by differences in software generation between the sender and recipient(s), and other interferences include but are not limited to sender's and recipient's Internet service provider's (ISP) and/or office/personal security firewall systems.

Thus, in the absence of an express statement from a non-signing inventor(s) that he/she/they have received, opened and read a document, unlike a printed page in the language of the recipient there is as of this writing no basis to presume that an Emailed document was in a form that can be read and comprehended.

ANALYSIS

The regulations at 37 C.F.R. §1.47 provide in pertinent part:

> **§ 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.
>
> * * *

The regulations at 37 C.F.R. §1.63 provide in pertinent part:

> **§1.63 Oath or declaration.**
>
> (b) In addition to meeting the requirements of paragraph (a)of this section, the oath or declaration must also:
>
> > (1)Identify the application to which it is directed;
> >
> > (2) State that the person making the oath or declaration has reviewed and understands the contents of the application, Including the claims, as amended by any amendment specifically referred to in the oath or declaration; and
> >
> > (3) State that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in § 1.56.

When one alleges a refusal of the inventor to sign the application papers, 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, *inter alia*, presented the inventor with the application papers and/or to whom the refusal was made.

The commentary at MPEP §409.03(d) provides:

> **409.03(d) Proof of Unavailability or Refusal**
>
> INVENTOR CANNOT BE REACHED
>
> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 C.F.R. §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 C.F.R. §1.47.

Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under 37 C.F.R. §1.47. 37 C.F.R. §1.43 may be available under these circumstances. See MPEP §409.02. Such a petition under 37 C.F.R. §1.47 will be dismissed as inappropriate.

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.

REFUSAL TO JOIN

A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 C.F.R. §1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See MPEP §106. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 C.F.R. §1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

> Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the 37 C.F.R. §1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Thus, not only must a copy of the entire application must be sent to the last known address of the non-signing inventor (or the estate representative) with a request that he/she sign the declaration for the patent application–and evidence of that transmittal submitted–but also a reasonable effort must be made to ascertain a current or last known address, and the petition (with fee) must state over the signature and registration number of the Petitioner the last known address and, if appropriate, evidence of the due diligence effort ascertaining same.

Alternatively, an oath or declaration for the patent application in compliance with 37 C.F.R. §§1.63 and 1.64 must be presented.

(The declaration must set forth the inventor's residence, citizenship and post office address. An oath or declaration in compliance with 37 C.F.R. §§1.63 and 1.64 signed by the Rule 1.47 applicant is required.[1])

---

[1] See: MPEP 409.03(b).

CONCLUSION

Petitioner is directed to the BACKGROUND section above to review the deficiencies outlined therein to be satisfied–along with copies of transmittal letters and other such documents offered in support of any averments of transmittal of the entire application (description, claims, abstract and drawings) to the non-signing inventor(s) at current/valid (or at least last-known/ascertainable) addresses–as well as evidence of a diligent effort to confirm the validity/currency thereof. The evidence of these requirements should be submitted with any renewed petition.

Therefore, the instant petition hereby is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:[2]

By mail: Commissioner for Patents[3]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

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

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3214.

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

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[2] On July 15, 2005, the Central Facsimile (FAX) Number was changed to (571) 273-8300. The old number is no longer in service and (571) 273-8300is the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

[3] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

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Paper No: __

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SAN FRANCISCO CA 94111

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
German, et al.	:	
Application No. 10/172,167	:	
Filed: 14 June, 2002	:	
Attorney Docket No.UCSF-038CON2	:	

This is a decision on the petition(s) (2) filed on 29 September, 2006, under 37 C.F.R. §1.47 as to submission and use of declarations under 37 C.F.R. §1.131.

For the reasons set forth below, the petition(s) under 37 C.F.R. §1.47(a) is (are) **GRANTED**.

BACKGROUND

The record indicates:

- the instant application was filed on 14 June, 2002;
- on 6 September, 2005, the Examiner mailed a non-final Office action to which Petitioner apparently wished to reply with, *inter alia*, declarations of the co-inventors under 37 C.F.R. §1.131 and/or §1.132 (see: MPEP §§715 and 716);
- on 13 March, 2006, Petitioner Nicholas V. Sherbina (Reg. No. 54,443) filed, *inter alia*, the original petition, an oath/declaration signed by Dr. Goldfine (for himself and on behalf of) but without that of non-signing co-inventors Dr. Michael S. German (Dr. German) and Stephen Rothman (Dr. Rothman) (Petitioner seeks to use the model of the

regulations at under 37 C.F.R. §1.47 to submit the declaration under 37 C.F.R. §1.131) and the statement Petitioner, which sets forth that the entire document of the declaration and attachments/exhibits thereto was sent to Drs. German and Rothman via Email for their review and signature as required by law, but that Drs. German and Rothman have failed to sign the declaration–and so the petition was dismissed on 27 June, 2006;

- it appears that Dr, German signed the declaration in the interim, and the instant petition seeks to overcome the remaining deficiencies.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office 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]

---

[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.
(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) &

This application and its 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 released to OIPE for processing as necessary to reflect the instant decision before being released for examination in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's/Caller's action(s).

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

(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] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 02-07

Paper No: __

DR. STEPHEN ROTHMAN
98 ACACIA AVENUE
BERKELEY, CA 94708-1202

COPY MAILED

MAR 0 1 2007

OFFICE OF PETITIONS

In re Application of :
German, et al. :
Application No. 10/172,167 : COMMUNICATION
Filed: 14 June, 2002 :
Attorney Docket No.UCSF-038CON2 :

Dear Dr. Stephen Rothman:

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

---

[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]

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.

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).

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's/Caller's action(s).

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

Counsel of Record:
KEVIN L. BASTIAN
TOWNSEND AND TOWNSEND
AND CREW,LLP
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO CA 94111

---

[2] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 5

Brian C. Kunzler
10 West 100 South, Suite 425
Salt Lake City, UT 84101

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NOV 0 6 2002

OFFICE OF PETITIONS

In re Application of
Kasal, et al.
Application No. 10/172,175
Filed: June 13, 2002
Attorney Docket No.: 1051.2.1
For: DIGITAL ENTERTAINMENT SOLUTION

DECISION DISMISSING PETITION UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed September 3, 2002.

The above-identified application was filed June 13, 2002 without a fully executed oath or declaration and naming Alpay O. Kasal, Martin P. Senn, Wilford T. Lee, Joshua L. Hamer, Daniel Osorio, and Aaron W. Smith as joint inventors. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed July 16, 2002 requiring an executed oath or declaration and surcharge.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor, or in the present case, the non-signing legal representative of the deceased 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.

Payment of the petition fee for consideration under Rule 47 is a prerequisite for treat on the merits of the instant petition. The Office will not reach the merits of any petition under 37 CFR 1.47 lacking the requisite fee. Accordingly, the instant petition is **DISMISSED**.

Any renewed petition must include the required petition fee, currently $130.00.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply. Any reply should be entitled "Request for Reconsideration of Petition under 37 CFR 1.47(a)," and may include an oath or declaration executed by the deceased inventor's legal representative. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

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

By mail: Commissioner for Patents

Box DAC
Washington, DC 20231

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

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

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

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

Brian C. Kunzler
10 West 100 South, Suite 425
Salt Lake City, UT 84101

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DEC 30 2002

OFFICE OF PETITIONS

In re Application of
Kasal, et al.
Application No. 10/172,175
Filed: June 13, 2002
Attorney Docket No.: 1051.2.1
For: DIGITAL ENTERTAINMENT SOLUTION

DECISION DISMISSING PETITION UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed December 2, 2002.

The above-identified application was filed June 13, 2002 without a fully executed oath or declaration and naming Alpay O. Kasal, Martin P. Senn, Wilford T. Lee, Joshua L. Hamer, Daniel Osorio, and Aaron W. Smith as joint inventors. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed July 16, 2002 requiring an executed oath or declaration and surcharge. A petition under 37 CFR 1.47(a) was filed September 3, 2002 and dismissed November 6, 2002.

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

The instant petition lacks item (2) set forth above. Petitioner alleges that the non-signing inventor cannot be located, however, petitioner has failed to provide any documentary evidence of efforts undertaken to locate the non-signing inventor. Where inability to find or locate a named inventor(s) is alleged, 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 to locate the inventor. The statement(s) 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. At the very least, a search of the internet, telephone directories, and/or international registries should be undertaken in regions where it is suspected the non-signing inventor may reside. Petitioner should reference and supply evidence of any such searches in a renewed petition. *See*, MPEP 409.03(d).

Any renewed petition must be accompanied by evidence to sufficiently establish that despite diligent effort, the non-signing inventor cannot be reached or located.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of

this decision to reply. Any reply should be entitled "Request for Reconsideration of Petition under 37 CFR 1.47(a)," and may include an oath or declaration executed by the deceased inventor's legal representative. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

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

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

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

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

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

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Paper No. 14
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SEP 02 2003
OFFICE OF PETITIONS

Brian C. Kunzler
10 West 100 South, Suite 425
Salt Lake City, UT 84101

In re Application of
Kasal, et al.
Application No. 10/172,175
Filed: June 13, 2002
Attorney Docket No.: 1051.2.1
For: DIGITAL ENTERTAINMENT SOLUTION

DECISION NOTING JOINDER OF INVENTOR AND PETITION UNDER 37 CFR 1.47(a) MOOT

This is in response to the renewed petition under 37 CFR 1.47(a), filed August 4, 2003 (Certificate of Mailing date of July 30, 2003).

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered to be moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

In view of the certificate of mailing contained in the instant petition, the Notice of Abandonment mailed July 30, 2003 is hereby VACATED and the holding of abandonment is WITHDRAWN.

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES 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 E. LOVEJOY, REG. NO. 22,748
102 REED RANCH ROAD
TIBURON, CA 94920-2025

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OFFICE OF PETITIONS

In re Application of	:	
YANG et al	:	
Application No.: 10/172,183	:	DECISION ON PETITION
Filing Date: June 14, 2002	:	UNDER 37 CFR 1.137(B)
Attorney Docket No.: GETS-01002US0 DEL	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 13, 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 Office communication mailed May 5, 2005, which set a one (1) month period for reply. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, by operation of law, the above-identified application became abandoned on June 6, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Office communication mailed May 5, 2005 is accepted as having been unintentionally delayed.

Applicant is advised that 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.

In addition, there is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the

person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary. The Office will not undertake dual correspondence.

This application is being referred to Technology Center AU 3627 for appropriate action on the reply in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3303.

Bryan Lin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Steven A. Swernofsky
Swernofsky Law Group PC
P.O. Box 390013
Mountain View, CA 94039-0013

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SERIAL NUMBER	REQUEST DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/172,184	7/2/02	LOU PING YANG, ET AL	3ETS-01000USO DEL

Title:
BUYER, MULTI-SUPPLIER, MULTI-STAGE SUPPLY CHAIN MANAGEMENT SYSTEM

Art Unit	Paper Number

Correspondence Address:
DAVID E. LOVEJOY
GETSILICON INC.,
4 EMBARCADERO CTR.,
SUITE 400
SAN FRANCISCO, CA. 94111-4156

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: 529,147

Grant Date: 03-Jul-02

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 application or applications.

This license does not empower the filing of any applications, amendments, supplements or continuances originating in this country which disclose inventions, modifications, or variations not disclosed in the subject matter identified above.

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 Office of Foreign Assets Control, 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 Adminsttration, Department of Commerce; and the Department of Energy.

LICENSE FOR FOREIGN FILING

[Title 35, United States Code (1952) Sections 184, 185, 186]

12-13-02

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PETITION FOR EXPEDITED FOREIGN FILING LICENSE UNDER 37 C.F.R. §§5.12(b), 5.13 and 5.14

Office of Licensing and Review
Assistant Commissioner for Patents
United States Patent and Trademark Office
Washington, DC 20231

Sir:

Petitioner, GetSilicon Inc., through its undersigned attorney, hereby petitions the Commissioner to grant, according to an expedited procedure, a foreign filing license for the subject matter set forth in the material attached hereto, entitled:

BUYER, MULTI-SUPPLIER, MULTI-STAGE SUPPLY CHAIN MANAGEMENT SYSTEM

Brief Description:

A global supply chain management system in an environment of multiple suppliers forming supply chains for one or more buyers using the Internet to enable rapid communication of supply information between the global supply chain management system and each buyer and each supplier. The system includes a global processor that maps "local" supply information for each buyer and each supplier, represented in one or more "local" property tables with one or more local tables for each buyer and each supplier, into "master" supply information, represented in one or more "master" supply tables common for multiple clients.

Please call Chris for pickup. Thanks! 486-1150

Petitioner notes the following for the information of the Commissioner:	
[ ]	No national or international patent application has yet been filed in the United States disclosing all of the subject matter for which the license is requested. 37 C.F.R. §5.13
[✓]	The subject matter for which the license is requested is disclosing in a United States patent application filed in the United States and identified as follows (copy enclosed):37 C.F.R. §5.14

07/03/2002 DBATES 00000018 10172184
01 FC:122 130.00 OP

Title: BUYER, MULTI-SUPPLIER, MULTI-STAGE SUPPLY CHAIN MANAGEMENT SYSTEM
Inventors: Lou Ping Yang, Mingtang Thomas Yin, Edwin Law, Siqing Wei, Johnson C. Lee
Filed: June 14, 2002
SC/Serial Number: 10/172,184
Attorney Docket No: GETS-01000US0 DEL

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ENCLOSURES	
[✓] **US Patent Application Parts** (Attorney Docket No: GETS-01000US0 DEL):	
Specification entitled: BUYER, MULTI-SUPPLIER, MULTI-STAGE SUPPLY CHAIN MANAGEMENT SYSTEM	54 Pages
Drawings	22 Pages
[✓] A duplicate copy of this Petition to be returned to the undersigned attorney, at the address designated below, with the license or other action on the Petition.	2 Pages
[✓] Petition fee as set forth in 37 C.F.R. §1.17(h) for expedited handling of the foreign filing license is provided by the enclosed check in the amount of $130.00.	1 Check
[✓] **POST CARD**	1 Page

CORRESPONDENCE ADDRESS for **David E. Lovejoy** (Reg, No. 22,748)		
Address	Customer No.	Communication
4 Embarcadero Ctr., Suite 400 San Francisco, CA 94111-4156	**21603**	Tel: (415) 362-3800 Fax: (415) 362-2928 e-mail:del@fdml.com

METHOD OF PAYMENT
[✓] **Payment Enclosed:** Check
[✓] **Deposit Account 06-1325:** The Commissioner is authorized to charge any fee (including any fee required under 37 CFR §§1.16, 1.17, 1.18 or otherwise) if no Payment Enclosed, and is authorized to charge any additional fees and credit any over payment associated with this communication to the Deposit Account.

SIGNATURE OF ATTORNEY		
David E. Lovejoy (Reg. No.22,748)	David E. Lovejoy	**Signature Date:** July 1, 2002

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02 JUL -2 PM 12:53

UNITED STATES 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 E. LOVEJOY, REG. NO. 22,748
102 REED RANCH ROAD
TIBURON, CA 94920-2025

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OFFICE OF PETITIONS

In re Application of	:	
Lou Ping Yang, et. al.	:	
Application No. 10/172,184	:	ON PETITION
Filed: June 14, 2002	:	
Attorney Docket No. GETS-01000US0 DEL	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 13, 2006, to revive the above-identified application. The delay in responding is regretted.

The application became abandoned for failure to respond to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed March 9, 2005. A Notice of Abandonment was mailed on December 6, 2005.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Steven A. Swernofsky 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. If Mr. Swernofsky desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

Additionally, it is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment/response; (2) the petition fee of $750; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

37 CFR 1.137(c) requires a terminal disclaimer dedicating to the public a terminal part of the term of any patent granted on the above-identified application or any patent granted on any continuing application that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the above-identified application. Since the application is not a utility or plant application filed on or before June 8, 1995, a terminal disclaimer is not required. Accordingly, the terminal disclaimer filed December 27, 2006 is unnecessary. Therefore, the fee of $65 will be refunded to petitioner in due course.

This application file is being referred to Technology Center Art Unit 3627 for further processing.

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Steven A. Swernofsky
P.O. Box 390013
Mountain View, CA 94039-0013

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Morriss O'Bryant Compagni, P.C.
136 South Main Street
Suite 700
Salt Lake City, UT 84101

MAILED

JUN 16 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re application of
Michel Bjorn et al
Application No.10/172,205
Filed: June 14, 2002
For: APPARATUS FOR TRANSPORTING AND STACKING GOODS, IN PARTICULAR IN THE FORM OF PLATES, AND CORRESPONDING PROCESS

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on May 30, 2003, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

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. For approval of such a request the following conditions must 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) 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);
C) 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;

The request to withdraw as attorney satisfies each of the conditions A) – C) above and the request is therefore **APPROVED**.

It is noted that all attorneys of record are listed for Customer Number 26986, as listed in the request for withdrawal of attorney, except for Mr. Randall B. Bateman. It is also noted that a phone call was made to Morris O'Bryant Compagni, resulting in confirmation that Mr. Randall B. Bateman, who is directed to in the new correspondence of address, remains as the **only** attorney of record in the Power of Attorney.

In summary, the request is **APPROVED**.

Kenneth J. Dorner, Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866
Facsimile No.: (703) 605-0586

KJD/dxn; 6/12/03

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 4

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OFFICE OF PETITIONS

DOUGHERTY & CLEMENTS
TWO FAIRVIEW CENTER
6230 FAIRVIEW ROAD, SUITE 400
CHARLOTTE, NC 28210

In re Application of
Newsom, et al.
Application No. 10/172,222
Filed: June 14, 2002
Attorney Docket No.: 3106
For: METHOD AND SYSTEM FOR INSTANTLY COMMUNICATING, TRANSLATING, AND LEARNING A SECONDARY LANGUAGE

DECISION DISMISSING PETITION UNDER 37 CFR 1.47(a)

This decision is in response to the petition under 37 CFR 1.47(a), filed October 7, 2002.

The above-identified application was filed June 13, 2002 without a fully executed oath or declaration and naming C. McKeller Newsom, Christian A. Terfloth, Jennifer Lupold Pearsall, and Ivanna Mann Thrower as joint inventors. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed August 1, 2002 requiring an executed oath or declaration and surcharge. The Notice set a two (2) month period of time for reply making a response due on or before October 1, 2002. The Notice indicated that extensions of time under 37 CFR 1.136(a) were permitted.

The instant petition was received October 7, 2002 and included neither a Certificate of Mailing in accordance with 37 CFR 1.8 nor a petition for an extension of time in accordance with 37 CFR 1.136(a).

Accordingly, the instant response to the Notice under 37 CFR 1.47(a) is **DISMISSED** as untimely.

Any renewed petition should be accompanied by a petition for an extension of time in accordance with 37 CFR 1.136(a) along with the required petition fee under 37 CFR 1.47[1].

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the above-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," should only address the deficiencies noted above, and 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 remain governed by 37 CFR 1.136(a).

---

[1]While petitioner references the enclosure of the petition fee due under 37 CFR 1.17(h), no such fee was received. The Office does, however, acknowledge receipt of an assignment recordation form and the required surcharge for late submission of an oath or declaration.

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

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

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

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

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

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 9

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OFFICE OF PETITIONS

DOUGHERTY & CLEMENTS
TWO FAIRVIEW CENTER
6230 FAIRVIEW ROAD, SUITE 400
CHARLOTTE, NC 28210

In re Application of
Newsom, et al.
Application No. 10/172,222
Filed: June 14, 2002
Attorney Docket No.: 3106
For: METHOD AND SYSTEM FOR INSTANTLY COMMUNICATING, TRANSLATING, AND LEARNING A SECONDARY LANGUAGE

DECISION DISMISSING PETITION UNDER 37 CFR 1.47(a)

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed December 23, 2002 and supplemented January 7, 2003.

The above-identified application was filed June 13, 2002 without a fully executed oath or declaration and naming C. McKeller Newsom, Christian A. Terfloth, Jennifer Lupold Pearsall, and Ivanna Mann Thrower as joint inventors. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed August 1, 2002 requiring an executed oath or declaration and surcharge. A petition under 37 CFR 1.47(a) was filed October 7, 2002 and dismissed November 6, 2002.

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

The petition fails to satisfy requirements (2) and (4) set forth above.

As to item (2), an acceptable oath or declaration for the patent application in compliance with 37 CFR 1.63 has not been presented. The declaration submitted upon petition fails to set forth a proper mailing address for the non-signing inventor. The declaration would appear to reference the business address of the non-signing inventor's former employer. Any renewed petition should be accompanied by a proper oath or declaration setting forth the inventor's proper mailing address or such information may be provided in the form of an Application Data Sheet in accordance with 37 CFR 1.76.

As to item (4), petitioner has failed to provide the last known address of the non-signing inventor. While petitioner has provided what appears to be the business address of the non-signing inventor's former employer, petitioner has failed to provide an actual mailing address. Any renewed petition must be accompanied by a statement of last known address.

The following required fees have been charged to the credit card indicated on the credit card payment form submitted January 7, 2003: petition fee ($130.00) and extension of time fee ($525.00).

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

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

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

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the above-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," should only address the deficiencies noted above, and 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 remain governed by 37 CFR 1.136(a).

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

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

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

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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. 12

DOUGHERTY & CLEMENTS
TWO FAIRVIEW CENTER
6230 FAIRVIEW ROAD, SUITE 400
CHARLOTTE, NC 28210

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OFFICE OF PETITIONS

In re Application of Newsom, et al. Application No. 10/172,222 Filed: June 14, 2002 Attorney Docket No.: 3106 For: METHOD AND SYSTEM FOR INSTANTLY COMMUNICATING, TRANSLATING, AND LEARNING A SECONDARY LANGUAGE	DECISION GRANTING PETITION UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed March 11, 2003.

The petition is **GRANTED**.

Petitioner has shown that inventor Jennifer Lupold Pearsall 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.

No renewed petition fee is due in connection with this matter.

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
WASHINGTON, D.C. 20231
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JENNIFER LUPOLD PEARSALL
2209 HASTINGS DRIVE
CHARLOTTE, NC 28207

In re Application of
Newsom, et al.
Application No. 10/172,222
Filed: June 14, 2002
Attorney Docket No.: 3106
For: METHOD AND SYSTEM FOR INSTANTLY COMMUNICATING, TRANSLATING, AND LEARNING A SECONDARY LANGUAGE

LETTER

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MAR 2 7 2003
OFFICE OF PETITIONS

Dear Madam:

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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Paper No. 7

JAMES E. BRUNTON
SUITE 860
700 NORTH BRAND BLVD.
P.O. BOX 29000
GLENDALE, CA 91209

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JUL 0 1 2004

OFFICE OF PETITIONS

In re Application of	:	
Stephen P. Hines	:	
Application No. 10/172,223	:	ON PETITION
Filed: June 13, 2002	:	
Attorney Docket No. 002-22	:	

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 29, 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 November 30, 2003.

Petitioner asserts that his reply to the October 29, 2003 non-final Office action was timely mailed via Certificate of Mailing under 37 CFR 1.8 dated November 26, 2003. In support, petitioner has supplied a copy of the original reply with the Certificate of Mailing dated November 26, 2003 with the instant petition, along with a declaration from petitioner stating that a response was filed on November 26, 2003.

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

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 3724.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070828

DATE : August 28, 2007

TO SPE OF : ART UNIT 2195

SUBJECT : Request for Certificate of Correction on Patent No.: 7,117,498

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:

The cited changes are not necessary. Claims 1-30 in Patent 7,117,498 are the same claims of the attached last response. The claims were renumbered at allowance in compliance with 37 CFR 1.75(g) to better illustrate claim dependency, i.e. claim 7 is renumbered claim 3 since it depends from claim 2.

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

BLAKELY SOKOLOFF TAYLOR & ZAFMAN

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ORANGE COUNTY/COSTA MESA, CA
DENVER, CO
PORTLAND/BEAVERTON, OR
SEATTLE, WA

December 5, 2006

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

DO NOT ENTER
JAL
8/28/07

Re: **CERTIFICATE OF CORRECTION**
U. S. Letters Patent No. 7,117,498
Issued: October 3, 2006
For: THREAD OPTIMIZATION FOR LOCK AND UNLOCK OPERATIONS IN A MULTI-THREAD ENVIRONMENT
Inventor: Li
Our File No. 42390.P13134

Dear Sir:

Enclosed is the Certificate of Correction (two copies) for the above-referenced patent.

This request for correction is made under rule 322 of the Rules of Practice and 35 U.S.C. Section 254.

Enclosed is a copy of the allowed claims from the entered amendment filed on 1/13/06.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Edwin H. Taylor
Reg. No. 25,129

EHT/mc
Enclosures

COPY OF COC

DEMED

BLAKELY SOKOLOFF TAYLOR & ZAFMAN

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PORTLAND/BEAVERTON, OR
SEATTLE, WA

December 5, 2006

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Re: **CERTIFICATE OF CORRECTION**
U. S. Letters Patent No. 7,117,498
Issued: October 3, 2006
For: THREAD OPTIMIZATION FOR LOCK AND UNLOCK OPERATIONS IN A MULTI-THREAD ENVIRONMENT
Inventor: Li
Our File No. 42390.P13134

Dear Sir:

Enclosed is the Certificate of Correction (two copies) for the above-referenced patent.

This request for correction is made under rule 322 of the Rules of Practice and 35 U.S.C. Section 254.

Enclosed is a copy of the allowed claims from the entered amendment filed on 1/13/06.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Edwin H. Taylor
Reg. No. 25,129

EHT/mc
Enclosures

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,117,498

DATED : October 3, 2006

INVENTOR(S) : Li

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Delete claims 1-30, and insert claims 1-30.

MAILING ADDRESS OF SENDER
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN
12400 Wilshire Blvd. 7th floor
Los Angeles, CA 90025-1026

PATENT NO. 7,117,498

Certificate of Correction (PTO Form 1050)-Amended

1. A method comprising:

recording a first reference to a first object in a first list when a first thread in a multi-thread environment invokes a lock operation, without actually locking, on the first object; and

restoring a thread-safe locking mechanism on the first object in the first list when a second thread is created.

2. The method of claim 1 further comprising:

removing the first reference from the first list when the first thread invokes an unlock operation, without actually unlocking, on the first object.

3. The method of claim 1 further comprising:

determining if the second thread attempts to access the first object.

4. The method of claim 3 wherein restoring the thread-safe locking mechanism on the first object comprises:

restoring the thread-safe locking mechanism on the first object if the second thread attempts to access the first object.

5. The method of claim 4 further comprising:

recording a second reference to a second object in a second list when the second thread invokes the lock operation, without actually locking, on the second object, the second reference being absent in the first list; and

restoring the thread-safe locking mechanism on the second object in the second list when one of the first thread and a third thread attempts to access the second object.

6. The method of claim 5 further comprising:

removing the second reference from the second list when the second thread invokes an unlock operation, without actually unlocking, on the second object.

7. The method of claim 2 wherein recording the first reference comprises:

storing the first reference in a data structure; and

updating a pointer to the data structure to point to a next location in the data structure.

8. The method of claim 5 wherein restoring comprises:

performing one of a safe lock operation and a safe unlock operation using an atomic operation.

9. The method of claim 7 wherein removing comprises:

updating the pointer to the data structure to bypass the first reference.

10. The method of claim 9 wherein storing the first reference comprises:

storing the first reference in one of an array, a linked list, and a stack.

11. An article of manufacture comprises:

a machine-accessible medium including data that, when accessed by a machine, causes the machine to:

record a first reference to a first object in a first list when a first thread in a multi-thread environment invokes a lock operation, without actually locking, on the first object; and

restore a thread-safe locking mechanism on the first object in the first list when a second thread is created.

12. The article of manufacture of claim 11 wherein the machine-accessible medium further comprises data that, when accessed by the machine, causes the machine to:

remove the first reference from the first list when the first thread invokes an unlock operation, without actually unlocking, on the first object.

13. The article of manufacture of claim 11 wherein the machine-accessible medium further comprises data that, when accessed by the machine, causes the machine to:

determine if the second thread attempts to access the first object.

14. The article of manufacture of claim 13 wherein the data causing the machine to restore the thread-safe locking mechanism on the first object comprises data, when accessed by the machine, causes the machine to:

restore the thread-safe locking mechanism on the first object if the second thread attempts to access the first object.

15. The article of manufacture of claim 14 wherein the machine-accessible medium further comprises data that, when accessed by the machine, causes the machine to:

record a second reference to a second object in a second list when the second thread invokes the lock operation, without actually locking, on the second object, the second reference being absent in the first list; and

restore the thread-safe locking mechanism on the second object in the second list when one of the first thread and a third thread attempts to access the second object.

16. The article of manufacture of claim 15 wherein the machine-accessible medium further comprises data that, when accessed by the machine, causes the machine to:

remove the second reference from the second list when the second thread invokes an unlock operation, without actually unlocking, on the second object.

17. The article of manufacture of claim 12 wherein the data causing the machine to record the first reference comprises data, when accessed by the machine, causes the machine to:

store the first reference in a data structure; and

update a pointer to the data structure to point to a next location in the data structure.

18. The article of manufacture of claim 15 wherein the data causing the machine to restore comprises data, when accessed by the machine, causes the machine to:

perform one of a safe lock operation and a safe unlock operation using an atomic operation.

19. The article of manufacture of claim 17 wherein the data causing the machine to remove comprises data, when accessed by the machine, causes the machine to:

update the pointer to the data structure to bypass the first reference.

20. The article of manufacture of claim 19 wherein the data causing the machine to store the first reference comprises data, when accessed by the machine, causes the machine to:

store the first reference in one of an array, a linked list, and a stack.

21. A system comprising:

a processor; and

a memory coupled to the processor to store a thread manager, the thread manager when executed, causing the processor to:

record a first reference to a first object in a first list when a first thread in a multi-thread environment invokes a lock operation, without actually locking, on the first object; and

restore a thread-safe locking mechanism on the first object in the first list when a second thread is created.

22. The system of claim 21 wherein the thread manager when executed, further causing the processor to:

remove the first reference from the first list when the first thread invokes an unlock operation, without actually unlocking, on the first object.

23. The system of claim 21 the thread manager when executed, further causing the processor to:

determine if the second thread attempts to access the first object.

24. The system of claim 23 wherein the thread manager causing the processor to restore the thread-safe locking mechanism on the first object causes the processor to:

restore the thread-safe locking mechanism on the first object if the second thread attempts to access the first object.

25. The system of claim 24 wherein the thread manager when executed, further causes the processor to:

record a second reference to a second object in a second list when the second thread invokes the lock operation, without actually locking, on the second object, the second reference being absent in the first list; and

restore the thread-safe locking mechanism on the second object in the second list when one of the first thread and a third thread attempts to gain access to the second object.

26. The system of claim 25 wherein the thread manager further causes the processor to:

remove the second reference from the second list when the second thread invokes an unlock operation, without actually unlocking, on the second object.

27. The system of claim 22 wherein the thread manager causing the processor to record causes the processor to:

store the first reference in a data structure; and

update a pointer to the data structure to point to a next location in the data structure.

28. The system of claim 25 wherein the thread manager causing the processor to restore the thread-safe locking mechanism on the first object causes the processor to:

perform one of a safe lock operation and a safe unlock operation using an atomic operation.

29. The system of claim 27 wherein the thread manager causing the processor to remove causes the processor to:

update the pointer to the data structure to bypass the first reference.

30. The system of claim 29 wherein the thread manager when executed, causing the processor to causes the processor to store the first reference, causes the processor to:

store the first reference in one of an array, a linked list, and a stack.

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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August 8, 2007

Patent No. : 7117498 B2
Ser. No. : 10/172225
Inventor(s) : Li
Issued : Oct. 3, 2006
Title : **THREAD OPTIMIZATION FOR LOCK AND UNLOCK OPERATIONS IN A MULTI-THREAD ENVIRONMENT**
Docket No. : 42390.P13134

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.

The cited changes are not necessary. Claims 1-30 in Patent 7,117,498 are the same claims of the attached last response. The claims were renumbered at allowance in compliance with 37 CFR 1.75(g) to better illustrate claim dependency, i.e. claim 7 is renumbered claim 3 since it depends from claim 2.

In view of the foregoing, your request is hereby **denied**.

Elisha Evans
For Cecelia Newman, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 Oakmead Parkway
Sunnyvale, CA 94085-4040

CBN/eme

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MAY 21 2007

OFFICE OF PETITIONS

Fish & Richardson, P.C.
P.O. Box 1022
Minneapolis, MN 55440-1022

In re Application of	:	
Michael G. Zemore	:	
Application No. 10/172,229	:	DECISION ON PETITION
Filed: June 17, 2002	:	TO WITHDRAW
Attorney Docket No. 83369	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 2, 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 Scott R. Boalick, former attorney with the firm of Fish & Richardson, P.C.

Scott R. Boalick has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

Applicant is advised that a non-final rejection was mailed on March 22, 2007. Failure to timely reply will result in the abandonment of this application.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Frances Hicks
Petitions Examiner
Office of Petitions

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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COLEMAN SUDOL SAPONE PC
714 COLORADO AVENUE
BRIDGEPORT, CT 06605-1601

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OFFICE OF PETITIONS

In re Application of	:	
Rafael Gomez et al	:	
Application No. 10/172,263	:	DECISION ON PETITION
Filed: June 14, 2002	:	
Attorney Docket No. P27-036	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 24, 2006, to revive the above-identified application, which is being treated as a petition under 37 CFR 1.181 requesting withdrawal of the holding of abandonment.

The petition is **GRANTED**.

The application was held abandoned for failure to reply in a timely manner to the non-final Office action mailed June 9, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on September 9, 2004. A Notice of Abandonment was mailed on December 15, 2004.

The petition states that the Office action of June 9, 2004, as well as the Notice of Abandonment of December 15, 2004, was mailed to the wrong address and that the recipients of those Office communications did not notify or forward the documents to the attorneys in this case.

A review of the file record discloses that a change of address was entered into this file on March 31, 2003. However, it is noted that this communication was placed in the wrong application. Accordingly, the Office communications in this application were mailed to an incorrect address.

The holding of abandonment will be withdrawn in an application where there is a clear error on the part of the U.S. Patent and Trademark Office. It is clear in this case that the Office actions were mailed to an address other than the address

directed. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn. This application has been restored to pending status.

The address of record has been corrected to the address noted above.

In view of the treatment of this petition as one requesting withdrawal of the holding of abandonment, no fee is required. Accordingly, the $750 petition fee submitted will be refunded to petitioner's deposit account in due course.

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

This application is being referred to Technology Center AU 1645 for appropriate action in the normal course of business on the reply received July 24, 2006.

Frances Hicks

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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Paper No. 7

FELIPE J. FARLEY
PATENT DEPT., MICHELIN N.A., INC.
515 MICHELIN ROAD
GREENVILLE, SC 29605

COPY MAILED

MAR 1 2 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of
Grah, Michael D.
Application No. 10/172,278
Filed: June 14, 2002
Attorney Docket No. P50-0056

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 1, 2004, to revive the above-identified application.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed July 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 September 20, 2002. A Notice of Abandonment was mailed on December 31, 2003.

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

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

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

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

#4
1-16-03

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

JAN 16 2003

Technology Center 2100

Paper No. 4

Matthew Rainey
HOWREY SIMON ARNOLD & WHITE, LLP
301 Ravenswood Avenue
Box No. 34
Menlo Park, CA 94025

In re Application of:	)	
Wiley	)	
Application No. 10/172,302	)	**DECISION ON REQUEST FOR**
Filed: June 13, 2002	)	**WITHDRAWAL AS ATTORNEY**
For: SYSTEM AND METHOD FOR ISOLATING FAULTS IN A NETWORK	)	

This is a decision on the Request To Withdraw from Representation filed December 13, 2002.

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

The request filed December 13, 2002 meets all the requirements. Accordingly the request is **GRANTED**.

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

James R. Matthews

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

cc: KONRAD, RAYNES & VICTOR, LLP
315 South Beverly Drive
Suite 210
Beverly Hills, CA 90212

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 3

Gary S. Engelson
WOLF, GREENFIELD & SACKS, P.C.
Federal Reserve Plaza
600 Atlantic Avenue
Boston, MA 02210

MAILED
OCT 17 2002
Technology Center 2100

In re Application of:
GLADSTONE et al
Application No. 10/172,305
Filed: June 14, 2002
For: STATEFUL DISTRIBUTED EVENT PROCESSING AND ADAPTIVE SECURITY

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition to make special filed September 12, 2002 under 37 C.F.R. §102(d) and M.P.E.P. §708.02(XI): Inventions For Countering Terrorism, to make the above-identified application special.

The petition is **DISMISSED**.

M.P.E.P. §708.02 (XI), which sets out the prerequisites for a grantable petition for Inventions For Countering Terrorism under 37 C.F.R. § 102(d), states in relevant part:

> International terrorism as defined in 18 U.S.C. 2331 includes "activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping..." The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.
>
> Applicants who desire that an application relating to inventions for countering terrorism be made special should file a petition with the petition fee under 37 CFR 1.17(h) requesting the Patent and Trademark Office to make the application special. The petition for special status should be accompanied by a statement explaining how the invention contributes to countering terrorism.

Petitioner's submission fails to meet the criteria set out with respect to countering terrorism in M.P.E.P. §708.02(XI). The claimed invention is directed to a method and apparatus for maintaining a computer network system by updating an operation on the computer network and

by executing a maintenance decision without human intervention when the computer network system detected changes in state to one or more network nodes which does not directly relate to countering violent act or acts dangerous to human life intended to intimidate a population or influence the policy or conduct of a government. While the petition states "One of major problems facing government agencies ... launched against "911" computers and other critical police and fire information systems clearly constitute activities that – (A) involve acts or acts dangerous to human life ...", the specification and claims do not disclose the attack to "911" computers and other critical police and fire information system. The claimed invention is clearly directed to a method and apparatus for maintaining or fail-safe of a general computer network system. Thus, this does not persuasively establish that the invention represents advancement in the field of countering terrorism.

Accordingly, the petition is **DISMISSED**. The application file is being forwarded to Central Files to await examination in its proper turn based on its effective filing date. Any request for reconsideration must be filed within TWO MONTHS of the mailing date of this decision.

It is suggested that applicant review M.P.E.P. §708.02 regarding other grounds available for filing a petition to make special. In particular, note M.P.E.P. §708.02(VIII): Accelerated Examination, which does not place limitations on the subject matter of the application.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Security, Architecture and Software
703-305-9750

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08/13/07

TO SPE OF : ART UNIT 2819

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/172323** Patent No.: **6927716**

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**.

A Green

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: The request for correction has been approved.

Renford Barnie — SPE

2819 — Art Unit

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HORIZON IP PTE LTD
166 KALLANG WAY
6TH FLOOR
SINGAPORE 34924-9 SG SINGAPORE

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FEB 15 2006

OFFICE OF PETITIONS

In re Application of	:	
Wei Chak Joseph LAM	:	
Application No. 10/172,327	:	ON PETITION
Filed: June 14, 2002	:	
Attorney Docket No. 12205/22	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 18, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply to a final Office action mailed May 20, 2004. A Notice of Abandonment was mailed December 9, 2004. In response, on November 18, 2005, petitioner submitted the present petition, an amendment and another Request for Continued Examination (RCE). An RCE, filed on November 21, 2004, was held improper by a communication mailed December 2, 2004.

Since the amendment filed November 18, 2005, cures the defect of the RCE filed November 21, 2004, the application is revived for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2). The filing fee paid with the RCE filed November 18, 2005 is being credited to counsel's deposit account.

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

The application file is being forwarded to Technology Center AU 3637 for further processing of the request for continued examination under 37 CFR 1.114 filed November 21, 2004.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LADAS & PARRY
26 WEST 61ST STREET
NEW YORK, NY 10023

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JUL 31 2007

OFFICE OF PETITIONS

In re Patent No. 7,025,839	:	
Issue Date: April 11, 2006	:	
Application No. 10/172,365	:	DECISION ON PETITION
Filed: June 14, 2002	:	
Attorney Docket No. U-014069-8	:	

This is a decision on the petition under 37 CFR 1.182, filed December 11, 2006, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

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

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. Inquiries regarding the issuance of a duplicate Letters Patent may be directed Krystal Paige in the Publishing Division at (703) 308-9250, Ext. 139.

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

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Krystal Paige, South Tower, 8th Floor (Fax No. (571) 270-9937

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 4

Michael G. Savage
BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. Box 1404
Alexandria, VA 22313-1404

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SEP 19 2002

OFFICE OF PETITIONS

In re Application of :
Umeyama, et al. :
Application No. 10/172,368 : DECISION ON PETITION
Filed: June 14, 2002 :
Attorney Docket No. 032674-171 :

This is a decision on the "Petition to Correct Filing Date under 37 CFR § 1.10(c)," filed September 10, 2002, requesting that the above-identified application be accorded a filing date of June 14, 2002, rather than the presently accorded filing date of June 17, 2002.

Petitioner maintains that on June 14, 2002, the application was deposited with the U.S. Postal Service (USPS) in accordance with § 1.10(a). In support thereof, applicants submit copies of the following documents:

- the Application Transmittal Letter and Return Postcard, to show that the number of the "Express Mail" mailing label, i.e., EL766104800US, was placed on each piece of correspondence prior to the original mailing; and
- a true copy of official notation by the USPS obtained from the official USPS website, indicating that the "Express Mail" package, having the label EL766104800US, was "ENROUTE, June 14, 2002, 7:35 pm," and was delivered to the Patent Office at 11:07 am on June 15, 2002.

Petitioner states that a true copy of the "Express Mail" mailing label is not available.

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. <u>The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation</u>. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date. See §1.6(a).
>
> (Emphasis supplied).

Paragraph (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

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.

The instant petition was filed promptly within the meaning of §1.10(c)(1). A review of the application papers presently accorded a filing date of June 17, 2002, reveals that "Express Mail" mailing label No. EL766104800US was placed on the application transmittal identifying the papers presently accorded a filing date of June 17, 2002, prior to the original mailing.

The petition does not include a true copy of the "Express Mail" mailing label showing a "date-in" of June 14, 2002. Nonetheless, the USPS prepared "Shipment History" submitted states that the package was "ENROUTE, June 14, 2002, 7:35 pm" and thereby, corroborates petitioner's claim of deposit on June 14, 2002. Given this evidence, the requirement for a copy of the "Express Mail" mailing label is *sua sponte* waived.

In view thereof, the petition is GRANTED.

No petition fee is required and none has been charged.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for correction of the filing date to June 14, 2002 and issuance of a corrected filing receipt.

Telephone inquires related to this decision may be directed to the undersigned at (703) 305-0309.

Nancy Johnson

Nancy Johnson
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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DEC 23 2002

OFFICE OF PETITIONS

In re Application of
Das et al.
Application No. 10/172,369
Filed: June 14, 2002
Attorney Docket No. 312/21

:DECISION ON PETITION AND
:NOTING JOINDER OF
:INVENTOR

This is in response to the petition filed on December 11, 2002, requesting "Cancellation Of Petition Under 37 CFR 1.47(a) And Entry Of Declaration Petitioner."

In view of the joinder of the inventors, further consideration under 37 CFR 1.47(a) is not necessary and such a petition would be considered to be moot.

Accordingly, the petition is granted.

This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

This file is being forwarded to Technology Center 2600 for examination in due course.

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

Christina Tartera Donnell

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 7

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MAY 22 2003

OFFICE OF PETITIONS

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

In re Application of
Das et al.
Application No. 10/172,370
Filed: June 14, 2002
Attorney Docket No. 312/20
For: NETWORK AND ACCESS PROTECTION IN OPTICAL NETWORKS

DECISION NOTING JOINDER OF INVENTOR AND PETITION UNDER 37 CFR 1.47(b) MOOT

Papers filed on March 11, 2003, included a signed declaration by a previously non-signing inventor in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under Rule 1.47(b) is moot; this application does not have any Rule 1.47 status and no such status should appear on the file wrapper. This application need not be returned to this Office for any further consideration under Rule 1.47(b).

For the above reasons, the petition is **dismissed as moot**.

This application is being returned to the Office of Initial Patent Examination to complete processing of the application.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 5, 2009

TO SPE OF : ART UNIT 2611 Chieh M. Fan

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/172,373 Patent No.: 6888899 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 COCIN Filed April 17, 2007 be approved? The correction to Column 33, line 29, has been previously approved but applicant is now changing the equation again.

Antonio Johnson
Certificates of Correction Branch
703-308-9390 ext. 111

Thank You For Your Assistance

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

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

Comments: _____

Chieh M. Fan
SPE

2611
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Michael Best & Friedrich LLP
100 East Wisconsin Avenue
Suite 3300
Milwaukee, WI 53202-41805

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FEB 06 2007

OFFICE OF PETITIONS

In re Patent No. 7,072,720 :
Issue Date: 07/04/2006 : NOTICE
Application No. 10/172,377 :
Filed: 06/14/2002 :
Attorney Docket No. 16294-0142 (45044-275201) :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed November 27, 2006.

37 CFR 1.28(c) states: "The deficiency is based on the amount of the fee, for other than a small entity, in effect at the time the deficiency is paid in full." Accordingly, the fee deficiency submission under 37 CFR 1.28 is hereby **accepted**.

The change of status to a large entity has been entered and made of record. This Notice is not intended to imply that the USPTO conducted any investigation of this matter.

There is no indication that the practitioner was ever granted a power of attorney in this patent. Moreover, there is no indication that patentee filed a change of address in this case. If the practitioner or patent owner desires to receive future correspondence regarding this patent, the appropriate power of attorney documentation and a change of correspondence address must be submitted. Correspondence will continue to be sent to the address of record in the patent file unless the Office is notified otherwise.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Steven F. Meyer
MORGAN & FINNEGAN
L.L.P 345 Park Avenue
New York, New York 10154

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OFFICE OF PETITIONS

In re Patent No. 6,978,824 :
Issue Date: December 27, 2005 :
Application No. 10/172,394 : DECISION ON PETITION
Filed: June 14, 2002 :
Attorney Docket No. 5000-5034 :

This is a decision on the petition under 37 CFR 1.182, filed March 2, 2007, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

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

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

The correspondence address set forth above differs from that currently contained in the official record. Be advised that all future correspondence will continue to be directed to the correspondence address contained in the record until such time as a change of correspondence address is requested.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3205. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Krystal Paige in the Publishing Division at (703) 308-9250, Ext. 139.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

cc: Krystal Paige, South Tower, 8th Floor, Room C32 (Fax No. (571) 270-9937)

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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B. CRAIG KILLOUGH
P. O. DRAWER H
CHARLESTON SC 29402

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JAN 07 2005

OFFICE OF PETITIONS

In re Application of
Wagner et al.
Application No. 10/172,407
Filed: June 14, 2002
Attorney Docket Number: 321.046

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 14, 2004, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a complete reply to the non-final Office Action of December 12, 2003. A Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed on April 7, 2004 which set an extendable reply period of one month. This application became abandoned on May 8, 2004. A Notice of Abandonment was mailed on April 9, 2002.

This Petition is hereby **Granted**.

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

This application is being forwarded to Technology Center 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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GIBSON & DERNIER L.L.P.
900 ROUTE 9 NORTH
SUITE 504
WOODBRIDGE, NJ 07095

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JAN 04 2010

In re Application of	:	
Scott Reimert	:	DECISION ON PETITION
Application No. 10/172,414	:	TO WITHDRAW
Filed: June 14, 2002	:	FROM RECORD
Attorney Docket No. 300-7	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 2, 2009.

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

A review of the file record indicates that on December 21, 2009 the power of attorney to Gibson & Dernier L.L.P. was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Kaplan Gilman & Pergament LLP
1480 Route 9 North
Woodbridge NJ 07095

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. 5

SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
186 WOOD AVENUE SOUTH
ISELIN NJ 08830

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FEB 25 2004

OFFICE OF PETITIONS

In re Application of
Larry Schessel
Application No. 10/172,434
Filed: June 14, 2002
Attorney Docket No.: 1997P07538 US 02

ON PETITION

This is a decision on the correspondence filed February 18, 2004, by facsimile transmission, which is treated under 37 CFR 1.181 as a petition to withdraw the holding of abandonment for the above-identified application.

The petition is **GRANTED**.

The application was held abandoned on September 25, 2002, for failure to timely file a response to the Notice to File Corrected Application Papers mailed July 24, 2002, requiring replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121. The Notice mailed July 24, 2002 also indicated that Figure 5 described in the specification appeared to have been omitted. A two (2) month period for reply was set. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed February 4, 2004.

Petitioner asserts that a proper response was timely filed. In support, petitioner submits a copy of the reply said to have been faxed to the U.S. Patent and Trademark Office on November 19, 2002, which included a request for a two month extension of time. A review of the file reveals that such a response was timely filed on November 19, 2002, but was not matched with the file and only now receives consideration.

In view of the above, the holding of abandonment is withdrawn. The Notice of Abandonment mailed February 4, 2004, was sent in error and is vacated. In view thereof, the fee for the extension of time has been charged to petitioner's deposit account no. 19-2179.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 7

SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
186 WOOD AVENUE SOUTH
ISELIN NJ 08830

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MAR 1 8 2004

OFFICE OF PETITIONS

In re Application of
Larry K. Schessel
Application No. 10/172,434
Filed: June 14, 2002
Attorney Docket Number: 1997P07538 US 02

DECISION ON PETITION
AND NOTICE OF ABANDONMENT

This is a decision on the Response to Notice to File Corrected Application Papers filed November 19, 2002, which is treated as a petition under 37 CFR 1.53 requesting that the above-identified application be accorded a filing date of June 14, 2002, with Figure 5 described in the specification as a part of the original disclosure.

The petition is **DISMISSED**.

On June 14, 2002, the application was filed.

On July 24, 2002, the Office of Initial Patent Examination (OIPE) mailed a Notice to File Corrected Application Papers stating that the application had been accorded a filing date of June 14, 2002, but that 1) replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121 were required and 2) that Figure 5 described in the specification appeared to have been omitted from the application. A two (2) month period for reply was set.

In response, on November 19, 2002, one (1) drawings sheet containing Figure 5 and a request for a two month extension of time were filed.

The November 19, 2002 response and extension of time request were not matched with the file and the application became abandoned. A petition to withdraw the holding of abandonment filed February 14, 2004 was granted in a decision mailed February 25, 2004 and the holding of abandonment vacated.

The decision granting the petition to withdraw the holding of abandonment, mailed February 25, 2004 was sent in error. Even though the request for a two month extension of time was filed on November 19, 2002, no response was timely filed. The response required to prevent the application from becoming abandoned would have been the replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121. Petitioner suggests in the November 19, 2002 filing and the February 18, 2004 filing that the replacement drawings had not been submitted.

This application will remain in an abandoned status until such time as a petition to revive under either 37 CFR 1.137(a) or 37 CFR 1.137(b), with the required response and the required fees, is filed.

The information provided regarding the omitted item, Figure 5, is not responsive to the Notice to File Corrected Application Papers and will not be addressed until such time as the application is revived.

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

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

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. 11

SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
186 WOOD AVENUE SOUTH
ISELIN NJ 08830

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DEC 06 2004

OFFICE OF PETITIONS

In re Application of :
Larry E. Schessel :
Application No. 10/172,434 : ON PETITION
Filed: June 14, 2002 :
Attorney Docket No.: 1997P07538 US 02 :

This is a decision on the petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of June 14, 2002, with Figure 5 described in the specification as a part of the original disclosure which was filed November 19, 2002 and held in abeyance. This decision is also on the petition under 37 CFR 1.137(b),[1] filed October 1, 2004, to revive the above-identified application.

The petition under 37 CFR 1.53 is **DISMISSED**.
The petition under 37 CFR 1.137(b) is **GRANTED**.

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

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

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

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

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

This application became abandoned September 25, 2002, for failure to timely reply to the Notice to File Corrected Application Papers mailed on July 24, 2002, which set a two (2) month shortened period for reply. While a two month extension of time request was filed November 19, 2002, the required reply in the form of replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121 were not submitted, thus, the application became abandoned. Accordingly, a Notice of Abandonment was mailed February 4, 2004.[2]

Receipt on October 1, 2004 of the replacement drawings, in compliance with 37 CFR 1.84 and 37 CFR 1.121, is acknowledged.

Additionally, as to the Request for Continued Examination, the request under 37 CFR 1.114 is improper since prosecution in the application has not been closed. This application is still in the pre-examination stage. The preliminary amendment filed October 1, 2004 is of record and the RCE fee in the amount of $790.00 will be credited to deposit account no. 19-2179.

Furthermore, with respect to the filing date petition filed November 19, 2002 which was held in abeyance until such time as the application was revived, Petitioner indicates that "Figure 5 was part of the original parent application, U.S. Ser No.08/885,316", admits that Figure 5 was inadvertently omitted from the application as filed and that the omission was unintentional. Petitioner requests therefore that the application, including Figure 5, be accorded a filing date of June 14, 2002.

Petitioner's argument has been considered, but is not persuasive. As petitioners concede that the omitted drawing figures were not in fact filed on June 14, 2002, the application cannot be accorded a filing date of June 14, 2002, with Figure 5 as a part of the original disclosure.

Petitioner's assertion that Figure 5, which was omitted on filing but was a part of a prior filed application and thus should be a part of the original disclosure of the instant application, also is not persuasive. Whether Figure 5 was a part of a prior filed application is not an issue here since the prior filed application was not specifically incorporated by reference into the disclosure of this application.[3] The mere reference to another application is not an incorporation of anything therein into the application

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[2]A Petition to Withdraw the Holding of Abandonment, filed February 18, 2004 was granted February 15, 2004 and vacated in a decision mailed March 18, 2004.

[3]See MPEP 608.01(p). It is noted that the transmittal sheet contained an incorporation by reference paragraph with a box next to it to be checked if the paragraph is applicable. As the box next to the incorporation by reference paragraph is not checked, it is apparent that no incorporation by reference was intended.

containing the reference.[4] To allow one to retroactively incorporate by reference a second application into a first application would allow the addition of matter into an application that was not present on filing which would be contrary to our statutes and rules.

The application will be processed and examined using only the application papers present on June 14, 2002. The one (1) sheet of drawings containing Figure 5 filed on November 19, 2002, will be examined by the examiner for a determination that it contains no new matter.

As the present petition was not necessitated by an Office error, a petition fee of $130.00 will be assessed to counsel's deposit account, No. 19-2179, as authorized in the petition filed November 19, 2002.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of June 14, 2002, using the application papers filed on that date. Thereafter, the application will be forwarded to Technology Center 2661 for a determination that the one (1) sheet of drawings containing Figure 5 filed on November 19, 2002, does not contain new matter.

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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[4] See In re de Seversky, 177 USPQ 144, 146 (C.C.P.A. 1973); Dart Industries v. Banner, 207 USPQ 273, 276 (D.C. Cir. 1980).

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

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APR 26 2007

OFFICE OF PETITIONS

In re Application of	:	
Gantman et al.	:	DECISION ON PETITION
Application No. 10/172,469	:	
Filed: 13 June, 2002	:	
Atty Docket No. 020079	:	

This is a decision on the under 37 CFR 1.137(b),[1] filed on 31 January, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 21 July, 2005, for failure to file a timely reply to the final Office action mailed on 20 April, 2005, which set a three (3) month shortened statutory

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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)).

period for reply. No extensions of the time for reply were filed in accordance with 37 CFR 1.136(a). Notice of Abandonment was mailed on 29 November, 2005.

Petitioners have filed an amendment after final rejection.

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. Petitioners **must** notify the Office if this is not a correct interpretation.

As the examiner has now indicated that the reply filed on 31 January, 2007, is a proper reply, the petition may be favorably considered.

The petition fee will be charged to counsel's deposit account, as authorized in the present petition.

This application is being forwarded to Technology Center 2100 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Amin, Turocy & Calvin LLP
1900 E. 9th Street
24th Floor, National City Center
Cleveland OH 44114

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OFFICE OF PETITIONS

In re Application of :
Alexander Crantman, et al. :
Application No. 10/172,469 : DECISION ON PETITION
Filed: June 13, 2002 :
Attorney Docket No. 020079 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 27, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before January 29, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed October 29, 2007. Accordingly, the date of abandonment of this application is January 30, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1440 and the publication fee of $300, (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

Telephone inquiries concerning this decision should be directed to Ramesh Krishnamurthy at (571)272 - 4914.

This application is being referred to Publishing Division for processing into a patent.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MCDERMOTT, WILL & EMERY
11682 EL CAMINO REAL
SUITE 400
SAN DIEGO, CA 92130-2047

Mail Date: 04/20/2010

Applicant	: Daniel S. Sem	: DECISION ON REQUEST FOR
Patent Number	: 7653490	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/172,485	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/13/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **405** 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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WASHINGTON, D.C. 20231
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Paper No. 5

STAAS & HALSEY LLP
700 11TH STREET, NW
SUITE 500
WASHINGTON DC 20001

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DEC 2 0 2002

OFFICE OF PETITIONS

In re Application of
Chung, et al.
Application No. 10/172,500
Filed: June 17, 2002
Attorney Docket No. 1293.1402
For: STORAGE MEDIUM HAVING PRELOADED FONT INFORMATION, AND APPARATUS FOR AND METHOD OF REPRODUCING DATA FROM STORAGE MEDIUM

DECISION DISMISSING PETITION

This is a decision on the petition, filed September 23, 2002, requesting accordation of a June 17, 2002 filing date with a drawing of Figure 11B as part of the original disclosure of the application.

The petition is dismissed.

The application was filed on June 17, 2002. On July 23, 2002, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application informing petitioners that a filing date had been accorded to the application papers, but that an executed declaration, filing fees, and Figure 11B appeared to have been omitted.

In response, the present petition was filed wherein applicants argue that Figure 11B is not necessary for an enabling disclosure and does not contain new matter.

Whether the drawing filed with the petition contains new matter is not the issue. Either the drawing was present in the Office on the filing date of the application or it was not. If it was not present on the filing date, it cannot be considered a part of the original disclosure of the application. Applicants do not allege in the petition that Figure 11B was present in the Office on June 17, 2002, and a review of the file confirms that Figure 11B was not present on June 17, 2002. Therefore, the application cannot be accorded the June 17, 2002 filing date with the drawing of Figure 11B as a part of the original disclosure. The issue of new matter is one appropriately addressed during prosecution of the application after the filing date of the application has been determined.

Of course, applicants may submit the drawing of Figure 11B as an amendment to the drawings, in which case the examiner will determine whether the additional sheet of drawing contains new matter (see MPEP 608.02(h)).

Pursuant to petitioners' authorization, a $130.00 petition fee is being charged to deposit account no. 19-3935.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of June 17, 2002 and indication in Office records that 11 sheets of drawings were present on filing.

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

E. Shirene Willis

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

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Group 3700

ACORN CARDIOVASCULAR, INC.
P.O. BOX 2903
MINNEAPOLIS, MN 55402

In re Application of
SHAPLAND ET AL.
Appl No.: 10/172,523
Filed: June 13, 2002
For: CARDIAC DISEASE TREATMENT AND DEVICE
Attorney Docket Number: 11998.22USD1

DECISION DISMISSING PETITION
37 CFR 1.181

This is a decision on petitioner's request filed January 3, 2005, requesting withdrawal of the holding of abandonment of the above-identified application because the applicant did not receive the Office communication mailed on May 4, 2004 at the correspondence address of record. In view of petitioner's statements, the petition is considered pursuant to 37 CFR 1.181. No fee is required for this petition.

The petition is dismissed.

The showing required to establish nonreceipt of an Office communication must include: (1) a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and (2) a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See MPEP 711.03(c) IA.

The instant petition has the statement and provides a copy of the docket record. However, a review of the file history indicates that the present application was filed with the Attorney Docket Number: 11998.22USD1. Applicant filed an amendment on December 30, 2003 in response to the non-final rejection that used the Attorney Docket Number: 11998.22USD1. However, the submitted docket record is for Attorney Docket Number: 11998.22USC1 and applicant has submitted correspondence under two different Attorney Docket Numbers: 11998.22USD1 and 11998.22USC1. It appears that petitioner may have entered some papers in their system under the wrong attorney docket number. Also, the submitted due date report is for a single date. If the wrong attorney docket number has been entered, it would appear that a wrong date could have been entered also. Given the evidence submitted with the petition, the petition is dismissed.

Petitioners may file a renewed petition, without fee, addressing the points raised above. Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No 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." Alternatively, petitioners may wish to consider filing a petition to revive under 37 CFR 1.137. The rules and MPEP sections cited may be found on the USPTO website at: www.uspto.gov.

Richard A. Bertsch, Director
Technology Center 3700

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MAR 17 2006

OFFICE OF PETITIONS

ACORN CARDIOVASCULAR, INC.
P.O. BOX 2903
MINNEAPOLIS, MN 55402

In re Application of :
Shapland, et al. : DECISION ON PETITION
Application No. 10/172,523 :
Filed: June 13, 2002 :
Atty. Dkt. No.: 11998.22USD1 :

This decision is in response to the renewed petition under 37 CFR 1.181 filed January 3, 2006.

This application was held abandoned August 5, 2004, for failure to timely file a proper response to the non-final Office action mailed May 4, 2004. The non-final Office action set a three month shortened statutory period for reply. Notice of Abandonment was mailed November 29, 2004. A petition under 37 CFR 1.181 was filed January 3, 2005 and dismissed November 8, 2005.

Petitioners argue that the non-final Office action mailed May 4, 2004 was not received at the correspondence address of record for the instant application.

In the absence of any irregularity in the mailing of the non-final Office action, there is a strong presumption that the non-final Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office communication was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. *See*, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

In support of the petition, petitioners have provided a copy of the docket record where the Office communication would have been entered had it been received along with a statement from practitioner that a search of the docket record and file jacket indicated that the Office communication was not received. Petitioners have also provided a reasonable explanation regarding the attorney docket number at issue that was set forth in the decision on petition mailed November 8, 2005

In view 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**.

This application is being directed to Technology Center 3700 for consideration of the reply to the non-final Office action submitted re-mailing of the non-final Office action.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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WK

Mailed: 6-19-06

In re application of	:	
Bach et al.	:	DECISION ON
Serial No. 10/172,534	:	PETITION
Filed: June 13, 2002`	:	
For: Electro-Magnetic Configuration For Uniformity Enhancement In A Dual Chamber Plasma Processing System	:	

This is a response to the PETITION UNDER RULE 37 C.F.R. 1.181(a) TO WITHDRAW NOTICE OF ABANDONMENT, filed July 1, 2005. The petition requests that the abandonment, as set forth in the Notice of Abandonment mailed May 11, 2005, be withdrawn.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee). The examiner mailed an office action on January 2, 2004 and applicants filed a response on April 30, 2004 with a one month extension fee. The examiner mailed an office communication on July 23, 2004 indicating that the response was not fully responsive. The examiner indicated on the July 23, 2004 communication that applicant is given one month or thirty days from the mailing date of the notice....extension of this time period may be granted under 37 CFR1.136(a).

Applicants filed a response to the July 23, 2004 communication on September 23, 2004 with a one month extension.

The Petition is **GRANTED**. The abandonment is withdrawn, applicant's response of September 23, 2004 will be entered into the file and the application will be forwarded to the examiner for consideration of applicant's response.

Jacqueline M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Keith M. Tackett
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Paper No.

TESTA, HURWITZ &
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HIGH STREET TOWER
125 HIGH STREET
BOSTON, MA 02110

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DEC 0 2 2005

OFFICE OF PETITIONS

In re Patent No. 6,900,094	: DECISION ON REQUEST
Hammond et al.	: FOR RECONSIDERATION OF
Issue Date: May 31, 2005	: PATENT TERM ADJUSTMENT
Application No. 10/172,542	: and
Filed: June 14, 2002	: NOTICE OF INTENT TO ISSUE
Atty Docket No.ASC-057(366/35)	: CERTIFICATE OF CORRECTION

This is a decision on the "Application for Patent Term Adjustment under 35 U.S.C. 154(b)" filed June 8, 2005. Patentees request that the patent term adjustment indicated in the Issue Notification (and on the patent) be corrected from zero (0) days to one hundred fifty-three (153) days.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED to the extent indicated herein**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of one hundred fifty-two (152) days.

On May 31, 2005, the above-identified application matured into U.S. Patent No. 6,900,094. The instant request for reconsideration filed June 8, 2005 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 0 days. The PTA at the time of the mailing of the Notice of Allowance of zero (0) days (including 33 days of reduction) was increased by

325 days, but also reduced by 325 days. Patentees dispute 2 reductions of 120 days each associated with the filing of a declaration after the mailing of the notice of allowance. Patentees dispute these reductions on the basis that the applicants did not submit any oath or declaration documents after the mailing of the Notice of Allowance constituting a failure to engage in reasonable efforts to conclude processing or examination of this application as set forth in 37 C.F.R. 1.704. Specifically, patentees state that both the declaration submitted April 5, 2004, and the declaration submitted September 7, 2004, were resubmissions of the declaration originally timely filed July 19, 2002. Patentees state that the resubmission was at the request of the examiner as the original declaration could not be located in the Office.

The application history has been reviewed, and it has been determined that the reductions pursuant to 1.704(c)(10) are at issue in this case. 37 CFR 1.704(c) provides, in pertinent part, that:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> (10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or
>
> (ii) Four months; …

It is agreed that no reduction was warranted for the resubmissions of declarations on May 14, 2004 and September 20, 2004. As stated by patentees, the record confirms that these declarations were resubmissions of declarations originally submitted July 19, 2002. In addition, receipt of the

declarations on July 19, 2002, was within three months of mailing of the Notice to File Missing Parts of Application mailed July 19, 2002. As such there was no applicant delay within the meaning of 1.704(b) or 1.704(c)(10) in the original filing or in the resubmission of the declarations. The two reductions of 120 days are unwarranted.

However, as acknowledged by patentees, reductions are warranted for the filing after the mailing of the notice of allowance of a 312 amendment on February 19, 2004 and replacement drawings on March 10, 2004. However, patentees' calculations of these periods are not exactly correct. The 312 amendment was filed on February 19, 2004 and the examiner's response was mailed on March 28, 2005. Whereas, the replacement drawings were filed on March 10, 2004 and the patent did not issue until May 31, 2005. The non-overlapping period is from February 19, 2004 to March 9, 2004 (and is not based, as stated by patentees, on the filing date of the Issue Fee). Yet, the number of days in this period is 20 days. The remaining adjustment under 1.704(c) is four months (or 120 days), the lesser period compared to the number of days in the period beginning on March 10, 2004 and ending on March 28, 2005.

Finally, patentees are advised that the period of adjustment associated with the response received October 23, 2003 is 33 days, not 30 days. The date of receipt, not the certificate of mailing date, is used in calculating the period of reduction. Patentees' attention is directed to 37 CFR 1.703(f), which provides that "[t]he date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation" of patent term adjustment. See also, Comment 10, *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 54366 (September 18, 2000).

In view thereof, the patent term adjustment indicated in the patent should have been one hundred fifty-two (152) days.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. See 35 U.S.C. § 254 and 37 CFR

§ 1.322. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by ONE HUNDRED FIFTY-TWO (152) days.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Kery A. Fries

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

Enclosure: Copy of DRAFT Certificate of Correction

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

THOMAS E. YOUNG, ESQ.
FAY, SHARPE, FAGAN, MINNICH & MCKEE, LLP
1100 SUPERIOR AVENUE, SEVENTH FLOOR
CLEVELAND, OH 44114-2579

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OFFICE OF PETITIONS

In re Application of	:	
Saunders et al.	:	
Application No. 10/172,549	:	DECISION GRANTING PETITION
Filed: August 7, 2002	:	
Attorney Docket No. NS-13483	:	

This is a decision on the petition filed August 7, 2002, to accord the above-identified application a filing date of August 7, 2002.

On June 13, 2002, the application was deposited.

On July 18, 2002, the Office of Initial Patent Examination mailed a Notice stating that Figures 12, 13, and 14 were missing and that a filing date had been accorded and that, unless a petition was filed, the application would be examined as filed.

In response, the present petition supplies the omitted items and requests that the date that the omitted items are being supplied be the filing date of the application.

In view of the above, the petition is **granted**. The copy of Figures 12, 13, and 14 submitted with the petition will be used for examination purposes.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of August 7, 2002, using the application papers filed on June 13, 2002, and the copy of Figures 12, 13, and 14 filed on August 7, 2002.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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JUN 21 2007

OFFICE OF PETITIONS

In re Application of

Martin, et al.

Application No. 10/172,566

Filed: June 14, 2002

Attorney Docket No. CM03368J

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed June 5, 2007, which will be treated as petition under 37 CFR 1.181(a) to withdraw the holding of abandonment.

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

This application was held abandoned on March 18, 2006, after it was believed that no response was received to the election/restriction requirement mailed February 17, 2006. The action allowed a shortened period for reply of one month from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment was mailed on February 7, 2007, indicating that a reply to Office was not received.

The instant petition maintains that an election responsive to the Office action was transmitted via EFS-Web on March 9, 2006. A review of the application file revealed a response to the restrication/election requirement was filed and made of record on March 9, 2006.

Based on the aforementioned, it appears that the application was improperly held abandoned as a proper response was transmitted prior to expiration of the period for reply. The holding of abandonment is withdrawn, accordingly. There is no fee for the instant petition. Deposit account 50-2117 will be refunded $500.00, in due course.

The application file is being forwarded Technology Center 2600 GAU 2611, for further processing including the consideration of the election filed March 9, 2006, which will be noted as having been timely received.

Kenya A. McLaughlin
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. 4

ROLAND PLOTTEL
Rockefeller Center Station
P.O. Box 293
New York NY 10185

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DEC 0 3 2002

OFFICE OF PETITIONS

In re Application of
Wegman, Bronsther, and Jacob
Application No. 10/172,601
Filed: June 14, 2002
Attorney Docket No. WEG-6

DECISION ACCORDING
STATUS UNDER
RULE 47(a)

This is in response to the petition under 37 CFR 1.47(a), filed October 28, 2002.

The petition is **GRANTED**.

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

A "Notice to File Missing Parts of Non-Provisional Application" ("Notice") was mailed to petitioner on August 2, 2002, indicating that petitioner neglected to file a proper oath or declaration in compliance with 37 CFR 1.63. The Notice also advised petitioner that a $65.00 surcharge was also due because a proper oath or declaration was not timely filed. The Notice set forth a period of reply of two months from its mailing date and indicated that extensions of time for reply were available pursuant to 37 CFR 1.136(a).

In response thereto, petitioner filed the instant petition. Petitioner also filed several accompanying exhibits through which petitioner established that although inventor Jacob was presented with a complete copy of the application papers, the inventor has, to date, failed to execute the same. Inventor Jacob's failure to return the declaration, in spite of his presumed receipt of the same, will be interpreted as constructive refusal to join the prosecution of the application.

Petitioner has shown that the non-signing inventor has refused to join the filing of the above-identified application after having been presented with the application papers, and 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.

Pursuant to the authorization provided by petitioner, Deposit Account 16-2128 will be charged $130.00 for the petition fee and $55.00 for an on month extension of time. Acknowledgement of is made the payment of the late surcharge fee in the amount of $65.00 by a check filed with the instant petition.

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

Telephone inquiries concerning this decision should be directed to Gregory J. Toatley, Jr. at (703) 305-4066 or to the undersigned at (703) 305-0010.

Kenya A. McLaughlin

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LETTER

Edwin T. Jacob, M.D.
284 Hallock Road
Stonybrook, NY 11790

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DEC 0 3 2002

OFFICE OF PETITIONS

In re Application of
Wegman, Bronsther, and Jacob
Application No. 10/172,601
Filed: June 14, 2002
Attorney Docket No. WEG-6

Dear Dr. Edwin T. Jacob:

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

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

Telephone inquiries concerning this communication should be directed to Gregory J. Toatley, Jr. at (703) 305-4066 or to the undersigned at (703) 305-0010. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington, DC area).

Kenya A. McLaughlin

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

cc: ROLAND PLOTTEL
Rockefeller Center Station
P.O. Box 293
New York NY 10185

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.: 08-07

Paper No: __

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SEP 04 2007

OFFICE OF PETITIONS

NOVO NORDISK, INC.
PATENT DEPARTMENT
100 COLLEGE ROAD WEST
PRINCETON NJ 08540

In re Application of	:	
Thim, et al.	:	DECISION
Application No.: 10/172,647	:	
Filing Date: 13 June, 2002	:	
Attorney Docket No. 6302.200-US	:	

This is a decision on the petition filed on 30 August, 2006, to withdraw the holding of abandonment and considered under 37 C.F.R. §1.181.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.[1]

For the reasons set forth below the petition as considered under 37 C.F.R. §1.181 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. §1.181."

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[1] **NOTE: Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected. Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.**

(If Petitioner is unable to present even a satisfactory showing to support a petition under 37 C.F.R. §1.137(a), and Petitioner's only alternative will be to file a petition under 37 C.F.R. §1.137(b).)

(2) Thereafter, there will be no further reconsideration of this matter.[2]

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 23 November, 2005, with reply due absent extension of time on or before 23 February, 2006;
- the application went abandoned by operation of law after midnight on 23 February, 2006;
- the Office mailed the Notice of Abandonment on 27 June, 2006;
- on 30 August, 2006, Petitioner filed the instant petition with, *inter alia*, with an averment not that he had filed a substantive reply, but that he had attempted to file a request for extension of time on 23 May, 2006, moreover, he also appears to have sought to obtain an extension of time to file the instant petition under 37 C.F.R. §1.181, which is not an option under the regulation.

Had Petitioner reviewed the instant application online in Private PAIR, he would have known that there appears to be no basis of record for the instant petition, and he does not appear to have provided one with the instant filing.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to

---

[2] For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Louden, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894). An invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R.§§1.181, 182, 183.

the Office the continuing duty to disclose.[3]

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).[4]

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[3] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[4] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

The 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.[5]

Delays in responding properly raise the question whether delays are unavoidable.[6] 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).[7]

And the Petitioner must be diligent in attending to the matter.[8] 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.[9]))

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.[10]

The commentary at MPEP §711.03(c) provides:

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[5] 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.

[6] 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).

[7] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[8] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[9] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[10] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

* * *

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), * (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. §1.8(b) and MPEP § 512. As stated in 37 C.F.R §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a

> reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.
>
> * * *

And the regulation requires that relief be sought within two (2) months of the act complained of.

It does not appear that Petitioner has satisfied the showing or the timing requirements, as described above.

CONCLUSION

Because it appears that Petitioner has not satisfied in part the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 is **is dismissed**.

ALTERNATIVE VENUE

Petitioner may wish to file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay. (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply (the amendment), the petition fee, and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

Further correspondence with respect to this matter should be addressed as follows:[11]

By mail: Commissioner for Patents[12]
P.O. Box 1450
Alexandria, VA 22313-1450

---

[11] On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. The old FAX number no longer is in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

[12] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

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

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[13]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

[13] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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NOVO NORDISK, INC.
PATENT DEPARTMENT
100 COLLEGE ROAD WEST
PRINCETON NJ 08540

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In re Application of	:	
Thim, et al.	:	
Application No.: 10/172,647	:	DECISION
Filing Date: 13 June, 2002	:	
Attorney Docket No. 6302.200-US	:	

This is a decision on the petition filed on 2 November, 2007, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.

PLEASE NOTE:

Petitioner's most recent filing suggests that there may be another address or correspondence contact for this application.

However, there is no indication that Petitioner herein ever properly Noticed the Office as to a change of address. Petitioner is reminded that inserting a change of address into another paper is not proper notice under the rules.

If Petitioner desires to receive future correspondence at a new address or have the instant application associated with a Customer Number not previously so associated, the appropriate Notice must be submitted.

All future correspondence will be directed to the address presently of record until such time as appropriate instructions are received indicating otherwise.

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

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor; a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

It appears that Petitioner has satisfied the requirements of the regulation, as set forth below:

BACKGROUND

The record reflects that:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 23 November, 2005, with reply due absent extension of time on or before 23 February, 2006.

The application went abandoned by operation of law after midnight on 23 February, 2006.

The Office mailed the Notice of Abandonment on 27 June, 2006;

On 30 August, 2006, Petitioner filed a petition under 37 C.F.R. §1.181 with, *inter alia*, an averment not that he had filed a substantive reply, but that he had attempted to file a request for extension of time on 23 May, 2006, moreover, he also appears to have sought to obtain an extension of time to file the instant petition under 37 C.F.R. §1.181, which is not an option under the regulation.Had Petitioner reviewed the instant application online in Private PAIR, he would have known that there was no basis of record for the petition and he did not provide one with the petition, and so it was dismissed on 4 September, 2007.

On 2 November, 2007, Petitioner filed the instant petition (with fee, charged now as authorized to Deposit Account 14-1447) alleging unintentional delay under 37 C.F.R. §1.137(b), included therewith, *inter alia*, a reply in the form of a continuation (Application No. 11/439,690) claiming priority to the instant application, and made the statement of unintentional delay.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus,

now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[2],[3]

CONCLUSION

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

The instant application is released to Technology Center/AU 1647 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Technology Center/AU in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center/AU OPAP where that change of status must be effected—that does not occur in the Office of Petitions.

---

[1] See supplement of 17 June, 1999.. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

[2] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[3] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

[4] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

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

In re Patent No. 7,581,103
Issued: August 25, 2009
Application No. 10/172,682
Filed: June 13, 2002
Attorney Docket No. 07451.0046-00000

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the DETERMINATION OF PATENT TERM ADJUSTMENT - POST GRANT filed on October 23, 2009, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 591 days to 839 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 (960) days is **GRANTED to the extent indicated herein**.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on June 14, 2005 and ends on December 17, 2006, the day before the RCE was filed, and the B delay considering the 183 days of overlap is 552 (not 553) days. See 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 960, not 839 days.

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **nine hundred sixty (960)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

/Kery A. Fries/

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

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,581,103 B2

DATED : August 25, 2009

INVENTOR(S) : William G. Horne

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 (591) days

Delete the phrase "by 591 days" and insert – by 960 days--

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

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OFFICE OF PETITIONS

In re Application of :
John J. Sears, et al. :
Application No. 10/172,685 :
Filed: June 13, 2002 :
Attorney Docket No. 341098001US1 :

ON PETITION

This is a decision on the petition, filed April 29, 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 22, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 3634 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).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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SQUIRE SANDERS & DEMPSEY, L.L.P.
TWO RENAISSANCE SQUARE
SUITE 2700
40 NORTH CENTRAL AVENUE
PHOENIX, AZ 85004

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JAN 0 7 2003

OFFICE OF PETITIONS

In re Application of	:
Roc Lastinger, James Rodgers, William	:
Fowler and Dean Freiwald	: DECISION REFUSING STATUS
Application No. 10/172,713	: UNDER 37 CFR 1.47(a)
Filed: June 14, 2002	:
For: WIRELESS IDENTIFICATION SYSTEMS AND PROTOCOLS	

This is in response to the "Petition Under 37 CFR 1.47(a)," filed October 29, 2002 (certificate of mailing date: October 23, 2002).

The petition is dismissed.

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

The above-identified application was filed on June 14, 2002 without an executed oath or declaration and naming Roc Lastinger, James Rodgers, William Fowler and Dean Freiwald as joint inventors.

Accordingly, on July 24, 2002, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration and a filing fee, and a surcharge for their late filing.

In response, on October 29, 2002 (certificate of mailing date: October 23, 2002), the instant petition, a statement of facts by Kevin Hanson, a combined declaration and power of attorney, the filing fee, the required surcharge and a one (1) month extension of time were filed.

A grantable petition under 37 CFR 1.47(a) requires:

> (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
>
> (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
>
> (3) the petition fee; and
>
> (4) a statement of the last known address of the non-signing inventor.

Applicant lacks item (1), as set forth above.

Applicant appears to demonstrate that, the non-signing inventor, Mr. Freiwald, has not been presented a copy of the application papers or the oath or declaration. Unless Mr. Freiwald was presented with a copy of the application papers (specification, claims and drawings), Mr. Freiwald could not attest that he has "reviewed and understands the application papers" and therefore could not sign or refuse to sign any declaration to which he may be given. Accordingly, Rule 47 applicant failed to show or provide proof that the inventor has refused to sign the declaration. See Manual of Patent Examining Procedure, Section 409.03(d). Petitioner should show that a copy of the application papers (specification, claims and drawings) was presented to the inventor, but that he did not respond to, or refused, the request that he sign the oath/declaration in order to show that the inventor has refused to join in the application. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events.

Petitioner submitted $460.00 for a three (3) month extension of time. The instant petition only required a one (1) month extension of time as, with the certificate of mailing, it was submitted within one month after the due

date of the missing parts. As such, the overpayment of $405.00 will be credited to deposit account no. 19-3878.

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

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

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

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

Telephone inquiries related to this decision should be directed to Petitions Attorney Edward Tannouse at (703) 306-9200.

for

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

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SQUIRE SANDERS & DEMPSEY, L.L.P.
TWO RENAISSANCE SQUARE
SUITE 2700
40 NORTH CENTRAL AVENUE
PHOENIX, AZ 85004

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OFFICE OF PETITIONS

In re Application of
Roc Lastinger, James Rodgers,
William Fowler and Dean Freiwald
Application No. 10/172,713
Filed: June 14, 2002
For: WIRELESS IDENTIFICATION
SYSTEMS AND PROTOCOLS

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.47(a)

This is in response to the "Request For Reconsideration of Petition Under 37 CFR 1.47(a)," filed April 14, 2003.

The petition is **granted**.

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

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

The file is being forwarded to Technology Center 2600 for examination in due course.

Telephone inquiries regarding this decision 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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WASHINGTON, D.C. 20231
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DEAN FREIWALD
1250 S. CLEARVIEW AVENUE, #104
MESA, AZ 85208

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APR 1 8 2003

OFFICE OF PETITIONS

In re Application of
Roc Lastinger, James Rodgers, William Fowler and Dean Freiwald
Application No. 10/172,713
Filed: June 14, 2002
For: WIRELESS IDENTIFICATION SYSTEMS AND PROTOCOLS

Dear DEAN FREIWALD:

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) 306-9200. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1(800) 972-6382 (outside the Washington D.C. area).

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

SQUIRE SANDERS & DEMPSEY, L.L.P.
TWO RENAISSANCE SQUARE
SUITE 2700
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PHOENIX AZ 85004-4498

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OFFICE OF PETITIONS

In re Application of	:	
Freiwald et al.	:	
Application No. 10/172,713	:	ON PETITION
Filed: 14 June, 2002	:	
Atty Docket No. 32329.00044	:	

This is a decision on the petition under 37 CFR 1.182, filed on 27 October, 2005, to change the order of the names of the inventors.

The petition is **granted**.

The order of the names of the inventors will be changed as follows:

1. Dean Friewald
2. Roc Lastinger
3. James Rodgers
4. William Fowler

It is noted that on 18 April, 2006, the present application issued as U.S. Patent No. 7,030,731, as a result of applicant's payment of the issue fee on 8 February, 2006.

Accordingly, upon submission of a request and the appropriate fee, a Certificate of Correction may be issued to effectuate the change of the order of the names of the inventors.

In view of the above, **the Certificates of Correction Branch is instructed to issue a certificate of correction upon submission by petitioner of a request for a certificate of correction (and fee) which sets forth the order of the inventors' names as set forth above**. *A copy of this decision* ***must*** *accompany the request for a Certificate of Correction.*

As the fee for a petition under 37 CFR 1.182 is $400.00, the fee due will be charged to counsel's deposit account as authorized in the present petition.

No further renewed petition under 37 CFR 1.182 is necessary for consideration by the Office of Petitions for issuance of a certificate of correction setting forth the desired order of the names of inventors, as this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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AUG 18 2005

RICHARD L HUFF
19304 OLNEY MILL ROAD
OLNEY, MD 20832

In re Application of GREEN, RONALD D. Application No.: 10/172,726 Filed: June 17, 2002	: : : :	**DECISION ON PETITION TO MAKE SPECIAL**

This is a decision on the petition filed June 17, 2002 to make special under 37 CFR 1.102(d).

Since the requirements of 37 CFR 1.102(d) and MPEP 708.02, II have been met, the petition is granted.

The application is being forwarded to the examiner for an action on the merits.

Linda J. Sholl
Special Program Examiner
Technology Center 3700
Phone: (571) 272-4391

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : September 12, 2009

Patent No. :7499853
Inventor(s) :Koji Yoshida et al
Issued :December 19, 2006
Title :DYNAMIC RAY TRAVERSING

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 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;

B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and

C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.

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 Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	571-273-8300 ATTN: Office of Petitions
EFS web	uspto.gov/ebc/index.html (must be registered as an e-filer to submit responses) Technical Support 1-866-217-9197

Any inquiry concerning this communication should be directed to Ms. A. Green at (703) 756-1541.

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

James E. Ledbetter
Dickinson Wright, PLLC
1901 L Street, N.W., STE 800
Washington, DC 20036-3506

/arg

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Paper No. 11

MAIL

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Kevin J. Zilka
SILICON VALLEY INTELLECTUAL PROPERTY GROUP
P.O. BOX 721120
SAN JOSE CA 95172-1120

In re Application of	:	
Wu et al.	:\	
Application No. 10/172,740	:	DECISION ON REQUEST TO
Filed: June 13, 2002	:	WITHDRAW AS ATTORNEY
For: METHOD AND APPARATUS FOR ADAPTIVELY CLASSIFYING NETWORK TRAFFIC	:	

This is a decision on the request to withdraw as attorney/agent of record filed on June 02, 2003.

A grantable request to withdraw as attorney/agent of record must include 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.

Attorneys requesting withdraw are not of record due to a Revocation of Power of Attorney executed by the assignee on May 08, 2003.

Accordingly, the request is **DISMISSED AS MOOT**.

Further communications will be directed to the address listed above until such a time as applicant properly notifies the Patent and Trademark Office of a change of address.

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

cc:
Cooley Godward LLP
Attn: patent Group
Five Palo Alto Square
3000 El Camino Real
Palo Alto, CA 94306-2155

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 11

William S. Galliani
COOLEY GODWARD LLP
ATT: PATENT GROUP
Five Palo Alto Square
3000 El Camino Real
Palo Alto, CA 94306-2155

In re Application of: Gupta et al. Application No.: 10/172,756 Filed: June 13, 2002 For: METHOD AND PPARATUS FOR DETECTING INTRUSIONS ON A COMPUTER SYSTEM	**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 June 2, 2003.

A Power Of Attorney Under 37 CFR § 1. 36 was filed on May 9, 2003. The Power Of Attorney revoked all prior Powers Of Attorney and appointed KEVIN J. ZILKA, DOMINIC M. KOTAB and CHRISTOPHER J. HAMATY as the attorneys of record of the instant application. The Power Of Attorney of May 9, 2003 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by ZILKA, KOTAB and HAMATY.

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

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

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

cc: Kevin Zilka
SILICON VALLEY IP GROUP
P.O. Box 721120
San Jose, CA 95172-1120

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
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Paper No. 9

William S. Galliani
COOLEY GODWARD LLP
ATT: PATENT GROUP
Five Palo Alto Square
3000 El Camino Real
Palo Alto, CA 94306-2155

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JUL 2 5 2003

Technology Center 2100

In re Application of:
Gupta et al.
Application No.: 10/172,764
Filed: June 13, 2002
For: HIERARCHY-BASED METHOD AND APPARATUS FOR DETECTING ATTACKS ON A COMPUTER SYSTEM

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 June 2, 2003.

A Power Of Attorney Under 37 CFR § 1. 36 was filed on May 8, 2003. The Power Of Attorney revoked all prior Powers Of Attorney and appointed KEVIN J. ZILKA, DOMINIC M. KOTAB and CHRISTOPHER J. HAMATY as the attorneys of record of the instant application. The Power Of Attorney of May 8, 2003 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by ZILKA, KOTAB and HAMATY.

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

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

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

cc: Kevin Zilka
SILICON VALLEY IP GROUP
P.O. Box 721120
San Jose, CA 95172-1120

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DEC 5 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

SOFER & HAROUN, L.L.P.
Suite 910
317 Madison Avenue
New York NY 10017

In re Application of
Firooz Ghassabian
Application No. 10/172,770
Filed: June 14, 2002
For: **MULTI-SECTIONED KEYPAD FOR WRIST DEVICES**

SUA SPONTE
DECISION WITHDRAWING
HOLDING OF ABANDONMENT

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

The application was held abandoned for failure to respond in a timely and effective manner to the Office communication mailed December 17, 2004. A Notice of Abandonment was mailed October 5, 2005.

Subsequently, it was brought to the Office's attention that a response had been timely filed, but inadvertently, an incorrect serial number was listed. A review of the incorrectly listed application file did result in locating not only applicant's response to the outstanding Office communication, but also locating a preliminary amendment filed on November 22, 2004.

Therefore it is determined that the application was not abandoned in fact. Accordingly, the response and preliminary amendment has been removed from the other application and associated with the subject application file.

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

The petition is **GRANTED.**

Applicant is reminded to insure the accuracy of the header information in the future to avoid delays in prosecution or potential abandonment.

The application will be forwarded to Technology Center's technical support staff for processing of the preliminary amendment filed November 22, 2004 and the response to the outstanding Office action filed February 22, 2005. From there, the file will be forwarded to the examiner for examination in due course

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JEAN-FRANCOIS MESTRE
3 RUE DE L'EST
75020 PARIS
FRANCE

COPY MAILED

APR 24 2003

OFFICE OF PETITIONS

In re Application of :
Robert Joseph Harley and :
Jean-Francois Mestre :
Application No. 10/172,776 : LETTER
Filed: June 14, 2002 :
Title: METHOD FOR GENERATING SECURE ELLIPTIC CURVES USING AN ARITHMETIC-GEOMETRIC MEAN ITERATION

Dear Mr. Mestre:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (703) 305-0272. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Cliff Congo
Petitions Attorney
Office of Petitions

Charles J. Kulas
Townsend and Townsend and Crew, LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834
(415)576-0200

UNITED STATES PATENT AND TRADEMARK OFFICE

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Washington, D.C. 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 2 4 2003

OFFICE OF PETITIONS

In re Application of :
Harley, et al. :
Application No. 10/172,776 : DECISION ACCORDING STATUS
Filed: June 14, 2002 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 021185-000110US:

This is in response to the petition under 37 CFR 1.47(a), filed December 2, 2002.

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

The above-identified application was filed on June 14, 2002, without an executed oath or declaration. Accordingly, on July 25, 2002, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring, *inter alia*, an executed oath or declaration. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition and paid the surcharge for late filing of the declaration. To make timely this reply, applicant obtained a two month extension of time and included a Certificate of Mailing dated November 25, 2002. Accompanying the petition was a declaration signed by joint inventor Robert Joseph Harley, but lacking a signature from joint inventor Jean-Francois Mestre.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, oath or declaration); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

On petition, attorney Charles J. Kulas included a written e-mail refusal from Mestre, dated October 15, 2002. While the petition did not establish that Mestre was presented with the application papers, but rather only "formal papers", it is clear that Mestre

understood what he was being asked to sign.[1]

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

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

The application file is being forwarded to Technology Center 2100, Group Art Unit 2124, for docketing.

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

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

[1] A refusal to sign an oath or declaration "when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign...." MPEP 409.03(d).

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

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SEP 2 8 2007

OFFICE OF PETITIONS

In re Application of	:	
Anthony Francesca, et al.	:	
Application No. 10/172,777	:	DECISION GRANTING PETITION
Filed: June 14, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 019927-002010US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 27, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 21, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to April Wise at (571) 272-1642.

This application is being referred to Technology Center AU 2618 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Karen Creasy
Petitions Examiner
Office of Petitions

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

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NUTTER MCCLENNEN & FISH LLP
WORLD TRADE CENTER WEST
155 SEAPORT BOULEVARD
BOSTON, MA 02210-2604

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SEP 25 2006

OFFICE OF PETITIONS

In re Patent No. 7,069,291	:	
Issued: June 27, 2006	:	
Application No.: 10/172,782	:	ON PETITION
Filed: June 14, 2002	:	
Attorney Docket No: 0102374-00023	:	

This is a regarding the "Payment of Defeciency Owed Per Rule 1.28(c)" filed June 6, 2006, which will be treated as a petition under 37 CFR 1.28(c).

The petition is **GRANTED.**

By the instant petition, petitioner informs the USPTO that the inventive entity is not eligible for small status. The loss of small entity status is acknowledged and noted in the application file.

The application file will be directed to the Files Repository.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Bernard S. Klosowski, Jr.
Dority & Manning, Attorneys at Law, P.A.
P.O. Box 1449
Greenville, SC 29602

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MAY 18 2006
OFFICE OF PETITIONS

In re Application of

Sartain, et al.

Application No. 10/172,799

Filed: June 14, 2002

Attorney Docket No. KCX-511 (17748)

DECISION ON PETITION

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

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $1400.00 and the publication fee of $300.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed December 5, 2005. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on March 6, 2006.

The issue fee and publication fee were received on March 7, 2005.

Form PTOL-85B, filed March 7, 2005, is noted and made of record.

The application is being directed to the Technology Center 2800, GAU 2877 for review of the amendment filed January 17, 2006.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Technology Center 2100

Paper No. 7

Townsend and Townsend and Crew LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

In re Application of:	)	
Thomas A. Kean	)	
Application No. 10/172,802	)	
Filed: June 13, 2002	)	**DECISION ON REQUEST FOR**
For: METHOD O F PROTECTING	)	**WITHDRAWAL AS ATTORNEY**
INTELLECTUAL PROPERTY	)	
CORES ON FIELD	)	
PROGRAMMABLE GATE ARRAY	)	

This is a decision on the Request To Withdraw from Representation filed November 21, 2002.

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

The request is signed by Melvin Chan alone and does not contain a clear indication that Mr. Chan is authorized to sign on behalf of the other attorneys of record and is signing on behalf of the other attorneys of record. 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.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Paper No. 11

Townsend and Townsend and Crew LLP
Two Embarcadero Center, 8th Floor
San Francisco, CA 94111-3834

In re Application of: Thomas A. KEAN Application No.: 10/172,802 Filed: June 13, 2002 For: METHOD OF PROTECTING INTELLECTUAL PROPERTY CORES ON FIELD PROGRAMMABLE GATE ARRAY	**DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY**

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1. 36 and 10.40(c) filed February 3, 2003.

A Revocation And Substitution Of Power Of Attorney Under 37 CFR § 1. 36 was filed on January 16, 2003. The Power Of Attorney revoked all prior Powers Of Attorney and appointed Orrick, Herrington & Sutcliffe LLP as the attorneys of record of the instant application. The Power Of Attorney of January 16, 2003 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by Orrick, Herrington & Sutcliffe LLP.

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 and Software
(703) 305-9750

cc: Donald Daybell, Esq.
ORRICK, HERRINGTON & SUTCLIFFE LLP
4 Park Plaza, Suite 1600
Irvine, CA 92614-2558

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 13

MAIL

MAR 2 5 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

COOLEY GODWARD LLP
Attn: Patent Group
Five Palo Alto Square
3000 El Camino Real
Palo Alto, CA 94306-2155

In re Application of:
Ramesh M. GUPTA, et al.
Application No. 10/172,803
Filed: June 13, 2002
For: PROTOCOL-PARSING STATE MACHINE AND METHOD OF USING SAME

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1.36 and 0.40(c) filed June 2, 2003.

A Revocation And Substitution Of Power Of Attorney Under 37 CFR § 1.36 was filed on May 9, 2003. The Power Of Attorney revoked all prior Powers Of Attorney and appointed Silicon Valley IP Group as the attorney(s) of record of the instant application. The Power of Attorney of May 9, 2003 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by Silicon Valley IP Group.

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

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

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

cc: Kevin J. Zilka
Silicon Valley IP Group
P.O. Box 721120
San Jose, CA 95172-1120

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. 14

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

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MAY 21 2004
OFFICE OF PETITIONS

In re Application of :
Hans-Dieter Schaller et al :
Application No. 10/172,806 :
Filed: June 14, 2002 :
Attorney Docket No. GP-302455 :

ON PETITION

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

The petition is GRANTED.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed September 17, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 18, 2003.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is not a correct interpretation of the statement contained in the instant petition.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on April 30, 2004.

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

such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

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

The application file is being forwarded to Technology Center AU 3617 for further processing.

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

cc:

John D. Reed
One Dayton Centre
One South Main Street, Suite 500
Dayton OH 45402-2023

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Paper No. None

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OFFICE OF PETITIONS

BROMBERG & SUNSTEIN LLP
125 SUMMER STREET
BOSTON MA 02110-1618

In re Application of	:	
Ian W. Hunter et al.	:	
Application No. 10/172,810	:	
Filed: June 13, 2002	:	DECISION ON PETITION
Attorney Docket No. 1118/184	:	UNDER 37 C.F.R. §1.137(B)
Title: HIGH POWER-TO-MASS RATIO	:	
ACTUATOR	:	

This is a decision on the petition filed January 12, 2007, 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 submit corrected drawings in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed August 17, 2006, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting formal drawings[2] (it is noted that the issue and publication fees were timely received on November 6, 2006). Accordingly, the above-identified application became abandoned on November 18, 2006. A Notice of Abandonment was mailed on January 9, 2007.

---

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

2 See MPEP §710.02(e).

37 C.F.R. §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 C.F.R. §1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 C.F.R. §1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 C.F.R. §1.137(b)(3) and Petitioner must notify the Office if this is not a correct interpretation of the statement contained in the instant petition.

With the present petition, the petition fee has been charged to Petitioner's Deposit Account. Petitioner has submitted corrected drawings, along with a statement that is being construed as the proper statement of unintentional delay. No terminal disclaimer is required.

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

The Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[3]. All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 9

Zagorin O'Brien & Graham, LLP
401 W 15th Street
Suite 870
Austin, TX 78701

In re Application of: Swaroop Adusumilli, et al.	)	
Application No. 10/172,814	)	**DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY**
Filed: June 12, 2002	)	
For: FLEXIBLE I/O INTERFACE AND METHOD FOR PROVIDING A COMMON INTERFACE TO A PROCESSING CORE	)	

This is a decision on the Request To Withdraw from Representation filed May 6, 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: Gammage & Burnham
Two North Central Ave.
18th Floor
Phoenix, AZ 85004

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. None

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

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SEP 22 2006
OFFICE OF PETITIONS

In re Application of Anand G. Dabak et al. Application No. 10/172,843 Filing Date: June 17, 2002 Attorney Docket Number: TI-33187 Title: MULTI-PATH INTERFERENCE CANCELLATION FOR TRANSMIT DIVERSITY	DECISION ON PETITION UNDER 37 C.F.R. § 1.137(B)

This is a decision on the petition under 37 C.F.R. §1.137(b)[1], filed March 9, 2006, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed September 2, 2005, which set a shortened statutory period for reply of three months. No response

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

was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on December 3, 2005.

37 C.F.R. §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 C.F.R. §1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 C.F.R. §1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 C.F.R. §1.137(b)(3) and petitioner must notify the Office if this is not a correct interpretation of the statement contained in the instant petition.

With the present petition, Petitioner has submitted the petition fee, an amendment, and a statement which is being construed as the proper statement of unintentional delay. A terminal disclaimer is not required.

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

It is noted that a final rejection was improperly mailed on August 21, 2006, prior to the revival of this application. The Technology Center will be notified of this decision. The Technology Center's support staff will re-mail this final rejection, and set a new period for response.

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.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as

appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

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

cc: Robert N. Rountree
Robert N. Rountree, LLC
70360 Highway 69
Cotopaxi, CO 81223

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

DEC 01 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Dergosits & Noah LLP
Suite 1450
Four Embarcadero Center
San Francisco, CA 94111

In re application of	:	**DECISION ON PETITION**
Limin Hu, et al.	:	**TO MAKE SPECIAL**
Application No. 10/172,844	:	**(INFRINGEMENT)**
Filed: June 14, 2002	:	
For: ONLINE SYSTEM FOR FULFILLING LOAN APPLICATIONS FROM LOAN ORIGINATORS		

This is a decision on the petition under 37 C.F.R § 1.102(d) filed November 18, 2004 to make the above-identified application special.

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

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

The petition filed November 18, 2004 meets all of the requirements above and, therefore, the petition is **GRANTED**.

Regarding, element 2(C) above, an Information Disclosure Statement was filed on June 14, 2002.

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

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

Randolph A. Reese

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

RAR/rwg: 11/24/04

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

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SEP 18 2002

OFFICE OF PETITIONS

BAKER BOTTS L.L.P.
44TH FLOOR
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112-0228

In re Application of
Motwani, et al.
Application No. 10/172,867
Filed: June 19, 2002
Atty. Dkt. No.: A31116-A / 072539.0103
For: EXPRESSION OF HETEROLOGOUS MULTI-DOMAIN PROTEINS IN YEAST

ON PETITION

This decision is in response to the petition to correct filing date, filed August 29, 2002. This petition is being treated under 37 CFR 1.10(c) as a petition to accord the above-identified application be accorded a filing date of June 19, 2002.

Petitioner alleges that the application was deposited in Express Mail service on June 19, 2002. Petitioner has provided evidence to this effect, including a copy of an "Express Mail Post Office to Addressee" mailing label bearing tracking number EF321681015US (the same Express Mail number found on the Express Mail certificate of mailing accompanying the original application papers located in the official file) and a "date-in" of June 19, 2002.

In view of the above, the petition under 37 CFR 1.10(c) is **GRANTED**.

No fee is due in connection with this matter.

This application is being forwarded to the Official of Initial Patent Examination for further processing along with issuance of a filing receipt designating June 19, 2002 as the date of filing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 11

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MAR 0 4 2003

OFFICE OF PETITIONS

BAKER BOTTS L.L.P.
44TH FLOOR
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112-0228

In re Application of
Motwani, et al.
Application No. 10/172,867
Filed: October 19, 2001
Atty. Dkt. No.: A31116-A / 072539.0103
For: EXPRESSION OF HETEROLOGOUS MULTI-DOMAIN PROTEINS IN YEAST

REVISED DECISION ON PETITION

This is a revised decision and corrects the decision mailed September 18, 2002 in response to the petition to correct filing date filed August 29, 2002. This petition is being treated under 37 CFR 1.10(c) as a petition to accord the above-identified application be accorded a filing date of October 19, 2001.

Petitioner alleges that the application was deposited in Express Mail service on October 19, 2001. Petitioner has provided evidence to this effect, including a copy of an "Express Mail Post Office to Addressee" mailing label bearing tracking number EF321681015US (the same Express Mail number found on the Express Mail certificate of mailing accompanying the original application papers located in the official file) and a "date-in" of October 19, 2001.

In view of the above, the petition under 37 CFR 1.10(c) is **GRANTED**.

No fee is due in connection with this matter.

This application is being forwarded to the Official of Initial Patent Examination for further processing along with issuance of a filing receipt designating **October 19, 2001** as the date of filing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BAKER BOTTS, LLP
44TH FLOOR
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112-0228

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DEC 29 2009

OFFICE OF PETITIONS

In re Patent No. 6,924,125 :
Issue Date: August 2, 2005 :
Application No. 10/172,867 :
Filed: October 19, 2001 :
Attorney Docket No. A31116-A / 072539.0103 :

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed October 20, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on August 2, 2009 for failure to pay the 3 ½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

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

The patent file is being forwarded to Files Repository.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

C mmission r f r Patents
Unit d States Patent and Trademark Offic
Washington, D.C. 20231
www.uspto.gov

Paper No. 6

FISH & NEAVE
1251 AVENUE OF THE AMERICAS, 50TH FLOOR
NEW YORK, NY 10020-1105

COPY MAILED

OCT 2 5 2002

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Young C. Moon et al :
Application No. 10/172,888 :
Filed: June 14, 2002 :
Attorney Docket No. VPI/01-115 :

This is a decision on the petition under 37 CFR 1.182, filed October 15, 2002, to change the name of joint inventor Deb Choquette to – Deborah Choquette –.

The petition is **dismissed.**

A review of the application file discloses that a Notice to File Missing Parts of Nonprovisional Application was mailed on July 18, 2002, which set a period of two months within which to supply the items noted thereon, namely, an executed oath or declaration, the $130 surcharge fee for the late submission of the oath or declaration, and an additional claim fee of $18. There is to date no indication that a reply to the Notice of July 18, 2002 has been received.

The spelling of an inventor's name is taken from the typewritten name as it appears in the originally filed executed oath or declaration. Therefore, since there is no indication that an executed oath or declaration in reply to the Notice of July 18, 2002 has as yet been submitted, the filing of the instant petition is premature and is dismissed as moot.

If an executed oath or declaration is submitted with the incorrect spelling of the above-noted inventor's name, a renewed petition under 37 CFR 1.182 should be submitted.

Any questions concerning this decision may be directed to the undersigned at (703) 305-8680.

This application is being forwarded to the Office of Initial Patent Examination to await a reply to the Notice of July 18, 2002.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/172,892	06/14/2002	Arthur Schleifer	10020292-1

OIPE JC26 SEP 23 2002 PATENT & TRADEMARK OFFICE

CONFIRMATION NO. 3443

FORMALITIES LETTER

OC000000008469861

AGILENT TECHNOLOGIES, INC.
Legal Department, DL429
Intellectual Property Administration
P. O. Box 7599
Loveland, CO 80537-0599

Date Mailed: 07/18/2002

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Adjustment date: 09/30/2002 WABDELR1
09/25/2002 MMEKONEN 00000106 501078 10172892
01 FC:122 130.00 CR

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of $130 for a non-small entity, must be submitted with the missing items identified in this letter.

The application is informal since it does not comply with the regulations for the reason(s) indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- Substitute drawings in compliance with 37 CFR 1.84 because:
  - drawing sheets do not have the appropriate margin(s) (see 37 CFR 1.84(g)). Each sheet must include a top margin of at least 2.5 cm. (1 inch), a left side margin of at least 2.5 cm. (1 inch), a right side margin of at least 1.5 cm. (5/8 inch), and a bottom margin of at least 1.0 cm. (3/8 inch);
  - drawings have a line quality that is too light to be reproduced (weight of all lines and letters must be heavy enough to permit adequate reproduction) or text that is illegible (reference characters, sheet numbers, and view numbers must be plain and legible) see 37 CFR 1.84(l) and (p)(1));

Items Required To Avoid Processing Delays:

The item(s) indicated below are also required and should be submitted with any reply to this notice to avoid further processing delays.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$130** for a Large Entity

- **$130** Late oath or declaration Surcharge.

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

VAN TRUONG

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

AGILENT TECHNOLOGIES, INC.
Legal Department, DL429
Intellectual Property Administration
P. O. Box 7599
Loveland, Colorado 80537-0599

OIPE JC26
SEP 2 3 2002
PATENT & TRADEMARK OFFICE

MP/#

PATENT APPLICATION

ATTORNEY DOCKET NO. 10020292-1

IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Arthur Schleifer, et al.,

Serial No.: 10/172892 **Examiner:**

Filing Date: June 14, 2002 **Group Art Unit:**

Title: Improved Hybridization Process For Arrays

COMMISSIONER FOR PATENTS
Washington, D.C. 20231

TRANSMITTAL LETTER FOR SUBMITTAL OF MISSING PARTS

Sir:

This is in response to a Notice to File Missing Parts of Application under 37 CFR 1.53(f) mailed on **July 18, 2002**. Enclosed is a copy of said Notice and the following documents and fees to complete the filing requirements of the above-identified application.

(**X**) Executed Declaration and Power of Attorney. The above-identified application is the same application which the inventor executed by signing the enclosed declaration.

( ) Statutory basic filing fee ( ) Utility $740.00 ( ) Design $330.00

( ) Additional claim fees of $

(X) Missing Parts Surcharge $130.00

( ) A Petition for Extension of Time for reply to Notice of Missing Parts is attached.
- ( ) one month $110.00
- ( ) two months $400.00
- ( ) three months $920.00
- ( ) four months $1440.00

Please charge to Deposit Account **50-1078** the sum of **$130.00**. At any time during the pendency of this application, please charge any fees required or credit any overpayment to Deposit Account **50-1078** pursuant to 37 CFR 1.25.

(**X**) A duplicate copy of this transmittal letter is enclosed.

Respectfully submitted,

Arthur Schleifer, et al.,

By Michael J. Beck

Michael J. Beck

Attorney/Agent for Applicant(s)
Reg. No. **40,907**

Date: **Sept. 17, 2002**

Telephone No.: **(650) 485-3864**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231.

Date of Deposit: **Sept. 17, 2002**

Typed Name: **Leanor S. Tuck**

Signature: Leanor S. Tuck

Rev 01/02 (MisParts)

AGILENT TECHNOLOGIES, INC.
Legal Department, DL429
Intellectual Property Administration
P. O. Box 7599
Loveland, Colorado 80537-0599

PATENT APPLICATION

ATTORNEY DOCKET NO. 10020292-1

OIPE JC26
SEP 2 3 2002
PATENT & TRADEMARK OFFICE

IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Arthur Schleifer, et al.,

Serial No.: 10/172892 **Examiner:**

Filing Date: June 14, 2002 **Group Art Unit:**

Title: Improved Hybridization Process For Arrays

OFFICIAL DRAFTSPERSON
Drawing Processing Branch
Washington, D.C. 20231

DRAWING TRANSMITTAL LETTER

Sir:

Enclosed herewith please find:

( ) _____ sheets of redlined drawing(s) which indicate proposed changes to the drawing(s). Upon approval of these proposed changes, formal drawing(s) will be submitted.

( ) _____ sheets of corrected formal drawing(s), as required by the Notice of Patent Drawings Objection (PTO-948) which accompanied the Office Action dated_____ .

( ) _____ sheets of corrected formal drawing(s), as required by the Notice of Patent Drawings Objection (PTO-948) and approved in the Notice of Allowability dated_____.

(X) 4 sheets of formal drawing(s). Please substitute these formal drawing(s) for the informal drawing(s) originally filed.

( ) _____

Examiner's approval of the entry of these drawings is respectfully requested. No new matter has been added.

Respectfully submitted,

Arthur Schleifer, et al.,

By Michael J. Beck

Michael J. Beck

Attorney/Agent for Applicant(s)
Reg. No. **40,907**

Date: **Sept. 17, 2002**

Telephone No.: **(650) 485-3864**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231.

Date of Deposit: **Sept. 17, 2002**

Typed Name: **Leonor S. Tuck**

Signature: Leonor S. Tuck

Rev 01/02 (Dwgtrans)

UNITED STATES 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
MAIL

NOV - 6 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of:
Ando et al.
Application No. 10/172,929
Filed: June 18, 2002
For: **INFORMATION RECORDING MEDIUM, INFORMATION RECORDING METHOD AND APPARATUS, AND INFORMATION PLAYBACK METHOD AND APPARATUS**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed August 22, 2002 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111(b) and (c), how the claimed subject matter is patentable over the references.

The petition lacks a statement that a pre-examination search was made with respect to the claim invention of the instant application. Petitioner states "A search was conducted by group art unit 2615 of the Patent and Trademark Office in a case related to the claimed subject matter of the present application (i.e., same patent family)...The search record indicates that the search of the Parent was conducted in the following subclasses..". The parent application is not being considered for special status. It is the instant application and the corresponding claims which petitioner seeks special status. Therefore, the instant petition lacks a satisfactory statement which satisfies item (4) above.

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

BEST AVAILABLE COPY

Should applicant desire reconsideration, he/she should supplement this petition by a declaration or statement under oath giving the information as outlined above. No further petition fee is required.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision.

The application is being forwarded to the group Central File and will await action in its regular turn.

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

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COMMISSIONER FOR PATENTS
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MAIL

JAN 25 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of :
Hideo ANDO, et al. :
Application No. 10/172,929 :
Filed: June 18, 2002 :
For: **INFORMATION RECORDING MEDIUM, INFORMATION RECORDING METHOD AND APPARATUS, AND INFORMATION PLAYBACK METHOD AND APPARATUS** :

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed November 15, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO, CA 94304-1050

COPY MAILED

AUG 0 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Joseph Kwasnoski, et al.	:	
Application No. 10/172,993	:	ON PETITION
Filed: June 18, 2002	:	
Attorney Docket No. 1503.0650003	:	

This is in response to the paper filed March 17, 2005 under 37 CFR 1.27(g) (2) requesting that status as a Small Entity be removed.

In accordance with the March 17, 2005 request, status as a Small Entity has been removed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

Retta Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OLIFF & BERRIDGE PLC
P. O. BOX 19928
ALEXANDRIA, VA 22320

COPY MAILED

MAR 0 6 2007

OFFICE OF PETITIONS

In re Application of	:
Yasushi Nishide et al	:
Application No. 10/173,019	: DECISION GRANTING PETITION
Filed: June 18, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 113055	:

This is a decision on the petition, filed March 5, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 15, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2625 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\Mar10\173019.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
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 4

UNILEVER
PATENT DEPARTMENT
45 RIVER ROAD
EDGEWATER NJ 07020

COPY MAILED

OCT 0 3 2002

OFFICE OF PETITIONS

In re Application of
Sta, et al.
Application No. 10/173,021
Filed: June 17, 2002
Attorney Docket No. C3952(V)

LETTER

This is a decision on the paper entitled, RESPONSE TO NOTICE TO OMITTED ITEM(S) IN A NONPROVISIONAL APPLICATION," filed August 7, 2002 (certificate of mailing date August 2, 2002), requesting that page 41 of the specification be accorded a filing date of June 17, 2002, despite the fact that it was missing upon initial filing.

The application was deposited on June 17, 2002. However, on July 12, 2002, the Office of Initial Patent Examination mailed a "Notice of Omitted Items in a Nonprovisional Application " stating that the application had been accorded a filing date of June 17, 2002, and advising applicants that page 41 of the specification appeared to have been omitted.

In response, the present correspondence was filed. Petitioners argue that page 41 of the specification should be accorded the same filing date as the papers filed on June 17, 2002, because page 41 was originally filed in prior application No. 09/627,089, the entire disclosure of which was incorporated by reference at the time of filing.

The request is **dismissed**.

Applicants seek to add page 41 to the present application on the basis that page 41 was incorporated by reference and is not new matter.

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.

If applicants desire that page 41 be added to the application, the appropriate procedure is by way of amendment requesting the entry of the page. Any such amendment should be filed prior to the first action on the merits and will be considered by the primary examiner.

Accordingly, the request cannot be granted at this time.

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

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

processing with a filing date of June 17, 2002.

Thereafter, the application will be forwarded to Technology Center 1700 for examination in due course.

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

E. Shirene Willis

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

OIPE JC
AUG 07 2002
PATENT & TRADEMARK

Tablet	Number of layers	DFS (kPa)	t_{90} (S) dissolution time
TAED separation	2	47.5	222
No separation	2	39.5	217
Comparative Example C	1	34.7	215

The results show that for similar dissolution times, separation of TAED from the percarbonate bleach results in a stronger tablet. Both two-layer tablets have the clay mineral all in one layer, and they are stronger than a comparable one-layer tablet which has no clay mineral, but have similar dissolution times.

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KELLEY, DRYE & WARREN, LLP
3050 K STREET, NW
SUITE 400
WASHINGTON, DC 20007

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FEB 08 2008

OFFICE OF PETITIONS

In re Application of	:	
Hugh H. Trout, III et al.	:	
Application No. 10/173,028	:	DECISION ON PETITION
Filed: June 18, 2002	:	TO WITHDRAW
Attorney Docket No.	:	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 January 18, 2008.

The request is **APPROVED**.

A review of the file record indicates that John N. Coulby of the firm Kelley, Drye & Warren, LLP: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, all the attorneys associated with customer number 25243 have been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

The correspondence address has been changed to the first named inventor and is copied below.

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

A Notice of Non-Compliant Appeal Brief was mailed on September 25, 2007. Failure to file a proper response will result in the abandonment of this application.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Hugh H. Trout, III, M.D.
8218 Wisconsin Avenue, Suite 204
Bethesda, MD 20814

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/173,028	06/18/2002	Hugh H. Trout III	

CONFIRMATION NO. 4017

POWER OF ATTORNEY NOTICE

25243
KELLEY DRYE & WARREN LLP
3050 K STREET, NW
SUITE 400
WASHINGTON, DC 20007

OC000000028184429

Date Mailed: 02/07/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/18/2008.

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

/kainabinet/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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FROM DIRECTORS OFFICE

MAR 16 2005

TECHNOLOGY CENTER 3600

Dorothy S. Morse, Esq.
515 Park Drive, NW
Bradenton, FL 34209-1847

In re Application of	:	
Virgil Eugene Hedgepeth	:	*SUA SPONTE*
Application No. 10/173,033	:	WITHDRAWAL OF THE
Filed: June 17, 2002	:	HOLDING OF ABANDONMENT
For: MOBILE TREE STAND		

Background

A review of the above-noted application reveals that a Final Office action rejection was mailed to applicant on January 30, 2004, setting a three-month shortened statutory period for response. On April 30, 2004 applicant filed a response to the January 30, 2004 Final rejection. On July 23, 2004 applicant filed a supplemental amendment to the response filed April 30, 2004. On September 3, 2004 the examiner mailed a Notice of Abandonment, listing the reason for abandonment as "Applicant's failure to timely file a proper reply to the Office letter mailed on 30 January 2004. A reply was received on 23 July 2004 (with a Certificate of Mailing or Transmission dated 23 July 2004), which is after the expiration of the period for reply (including a total extension of time of ____month(s)) which expired on 30 April 2004 (Notice of Abandonment, September 3, 2004)."

Discussion

It is clear that, contrary to the reasoning given by the examiner on the September 3, 2004 Notice of Abandonment, applicant did file a timely response to the January 30, 2004 Final rejection, on April 30, 2004. And, that the examiner never considered the response filed April 30, 2004, before abandoning the application.

Conclusion

For the reasons noted above, the abandonment of this application is hereby withdraw. The application will be forwarded to the Supervisory Legal Instruments Examiner for withdrawal of the abandonment, and then to the examiner for prompt action on the April 30, 2004 amendment.

Inquiries regarding this decision may be directed to the phone number given below.

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

KJD/rwg: 1/20/05

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DOROTHY S. MORSE, ESQ.
515 PARK DRIVE, NW
BRADENTON, FL 34209-1847

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MAR 1 5 2005

OFFICE OF PETITIONS

In re Application of :
Hedgepeth, Virgil Eugene :
Application No. 10/173,033 : ON PETITION
Filed: June 17, 2002 :
Attorney Docket No. 0206-HEDG :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 25, 2004, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the final Office action mailed January 30, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on May 1, 2004. A Notice of Abandonment was mailed September 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 $475.00 extension of time fee submitted with the petition on September 25, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded and a refund check will be mailed to petitioner in due course.

This matter is being referred to Technology Center 3600 for further examination on the merits.

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

Liana Chase

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 5

SCHIFF HARDIN & WAITE
6600 SEARS TOWER
233 S WACKER DR
CHICAGO IL 60606-6473

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AUG 2 1 2002

OFFICE OF PETITIONS

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In re Application of
Arndt, et al.
Application No. 10/173,055
Filed: June 17, 2002
Attorney Docket No. P98,0133-01

DECISION ON PETITION

This is a decision on the "Petition to Consider Correspondence Filed in the United States Patent and Trademark Office under 37 CFR 1.10," filed August 8, 2002. This petition is properly treated as a petition under 1.53, requesting that the above-identified application be accorded a filing date of June 17, 2002

Petitioner maintains that the above-identified application was deposited in the Express Mail Post Office to Addressee service of the United States Postal Service on June 17, 2002, pursuant to 37 CFR §1.10, and thus, is entitled to June 17, 2002 as a filing date. In support thereof, petitioner submitted *inter alia* a copy of the Express Mail mailing label used to transmit the application and a copy of their return postcard receipt.

A review of the application file confirms that this application was received in the Office by way of Express Mail as alleged, and has been accorded a date of receipt of June 17, 2002. However, on July 24, 2002, the Office mailed a "Notice of Incomplete Nonprovisional Application," informing applicants that the application had not been accorded a filing date because the application was deposited without drawings[1].

Petitioner is advised that a filing date of June 17, 2002 for the instant application is sought by way of petition under §1.53(e)(2), not §1.10[2]. The specific issue is not whether

---

[1] 35 USC 111(a)(4) provides that the filing date of a nonprovisional application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office.

[2] The specific rule for obtaining a filing date as of the date of deposit in "Express Mail" (rather than the date of receipt at the Office) is 37 C.F.R. §1.10, as revised, effective December 2, 1996. 37 C.F.R. §1.10(e) applies where correspondence deposited with the USPS as "Express Mail" is not received by the Office. However, §1.10(e) applies only in those situations in which the correspondence at issue was lost *in toto* (i.e., the entire correspondence was not delivered to the Office). Where there is a dispute as to the contents of the correspondence submitted to the Office (e.g., an

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petitioner has shown that the correspondence was deposited with the USPS on June 17, 2002, but rather whether petitioner has shown that the correspondence filed on that date included drawings and thus, is entitled to a filing date.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. A review of petitioner's postcard receipt reveals that: 1) it was date stamped as received in the USPTO on June 17, 2002; 2) it specifically identifies the items being filed, including "2 sheets dwgs" and 3) it lacks any annotation of nonreceipt of any item denoted on the postcard. Thus, petitioners have shown that the items denoted, including the 2 sheets of drawings, were filed on June 17, 2002. Accordingly, the application as deposited included drawings and is entitled to a filing date of June 17, 2002.

The petition is **GRANTED**.

Given the basis for granting the petition, the petition fee is subject to refund. Accordingly, the petition fee will not be charged to the Deposit Account, as authorized.

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

- further processing with a filing date of June 17, 2002, using the application papers received in the Office and presently accorded that date; and the two sheets of drawings resubmitted on petition filed August 8, 2002;

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

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

Christina Barbara Donnell for

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

---

applicant asserts that three sets of drawings were submitted under 37 C.F.R. 1.10 with an application, but the Office records indicate receipt of only two sheets of drawings with the application), an applicant may not rely upon the provisions of 37 C.F.R. §1.10(e) to establish what document(s) and/or fee(s) were filed in the Office with such correspondence. Rather, where the records of the Office (e.g., the file of the application) contain any document(s) or fee(s) corresponding to the contents of the correspondence at issue, the Office will rely upon its official record of the contents of such correspondence in absence of convincing evidence (e.g., a postcard receipt under MPEP §503 containing specific itemization of the document(s) or fee(s) purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s) or fee(s) that is not among the official records of the Office. See MPEP 513, Rev. 1, Aug. 2001.

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Paper No. 8

Lawrence E. Laubscher, Sr.
Suite 300
745 South 23rd Street
Arlington, VA 22202

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DEC 15 2003

OFFICE OF PETITIONS

In re Application of
Pasquini et al.
Application No. 10/173,098
Filed: June 18, 2002
Attorney Docket No. 19418

DECISION GRANTING PETITION

In re Application of
Pasquini et al.
Application No. 10/470,569
Filed: June 2, 2003
Title: ANTISEPTIC TAMPON AND METHOD OF PREPARING IT

This is a decision on the PETITION TO THE DIRECTOR, filed August 22, 2003, which is properly treated as a petition under 37 CFR § 1.53(e), requesting that an improper Continued Prosecution Application (CPA) under 37 CFR § 1.53(d) be treated as an application under 37 CFR § 1.53(b) and be accorded a filing date of June 2, 2003.

On May 21, 2003, a non-final Office action was mailed in application No. 10/173,098. On petition, applicants provided *prima facie* evidence in the form of a return postcard receipt that on June 2, 2003, applicants had submitted a divisional application under 37 CFR § 1.53(d). This divisional application included a 14 page specification, 4 claims, 1 sheet of formal drawings, a declaration, a check for $375 for payment of the filing fees, a preliminary amendment and an Information Disclosure Statement. The postcard shows that the papers filed also included a request for CPA under 37 CFR § 1.53(d) based on prior application No. 10/173,098.

CPA practice no longer applies to applications, other than design applications, if the prior application was filed on or after May

29, 2000[1]. Accordingly, the CPA request was improper because the prior application was filed on or after May 29, 2000.

In the event that an applicant files a request for a CPA of a utility or plant application that was filed on or after May 29, 2000 (to which CPA practice no longer applies), the Office will automatically treat the improper CPA as a request for continued examination of the prior application (identified in the request for CPA) under new 37 CFR § 1.114. However, continued examination under 37 CFR § 1.114 does not apply to an application unless prosecution in the application is closed. On June 2, 2003, prosecution in application No. 10/173,098 was not closed.

On August 22, 2003, applicants filed the present petition under 37 CFR § 1.53(e). Applicants indicated that they did not want the request for a CPA to be treated as a request for continued examination under 37 CFR § 1.114. Rather, applicants requested that the improper CPA be converted to an application under 37 CFR § 1.53(b). With the present petition, applicants submitted a complete copy of the prior application as originally filed, a preliminary amendment, an information disclosure statement, a copy of the executed declaration from the prior application, and paid the petition fee.

The petition is granted.

The original 14 page specification, the one sheet of drawings, and the copy of the executed declaration filed June 2, 2003, have been located in application No. 10/173,098.

The application under 37 CFR 1.53(b) filed on June 2, 2003, has been assigned application No. 10/470,569. The copy of the CPA request, the present petition, the copy of the application papers filed August 22, 2003 (the specification, executed declaration, drawings, the preliminary amendment, and the information disclosure statement) and the application papers filed June 2, 2003, have been placed in application No. 10/470,569. A copy of the CPA request and the present petition will be retained in application No. 10/173,098 to complete the record therein. All further correspondence concerning the application under 37 CFR 1.53(b) should be directed to application No. 10/470,569, not application No. 10/173,098.

The Office finance records will be corrected to show that the $375.00 filing fee received on June 2, 2003, and the $130.00 petition fee received on August 22, 2003, were paid in application No. 10/470,569, not in application No. 10/173,098.

Application No. 10/470,569 will be forwarded to the Office of Initial Patent Examination for further processing as an

---

[1] Section 1.53(d) has been amended to provide that an application may be filed as a CPA under 1.53(d) only if the application is for a design patent (either an original or reissue design application) and the prior nonprovisional and the prior nonprovisional application (of which the CPA is a continuation or divisional) is a design application that is complete as defined by § 1.51(b). See Elimination of Continued Prosecution Application Practice as to Utility and Plant Patent Applications, Final Rule, 68 FR 32376 (May 30, 2003), effective July 14, 2003.

application filed under 37 CFR 1.53(b), not under 37 CFR 1.53(d), with a filing date of June 2, 2003, using the application papers filed June 2, 2003.

Application No. 10/173,098 is being returned to Technology Center 3761 for further processing.

Telephone inquiries concerning this matter may be directed to Senior Petitions Attorney Nancy Johnson at (703) 305-0309.

Eugenia A. Jones

Eugenia A. Jones
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

NJ

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JUN 16 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Flynn, Thiel, Boutell & Tanis, P.C.
2026 Rambling Road
Kalamazoo, MI 49008-1699

In re Application of
Dieter Ainedter
Application No. 10/173,128
Filed: June 17, 2002
For: APPARATUS FOR PRODUCING WALL PANELS

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicants' petition to withdrawal the holding of abandonment filed on April 13, 2004.

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

☒ Postcard receipt being dated April 5, 2004.

☐ USPTO return facsimile receipt dated _____, which references the application by serial number and the amendment that was filed on that date.

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

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

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

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

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

KJD/vdb: 6/3/04

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

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HALE AND DORR, LLP
60 STATE STREET
BOSTON MA 02109

Paper No. 14

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JAN 13 2003

OFFICE OF PETITIONS

In re Application of
Jakobsen
Application No. 10/173,138
Filed: June 17, 2002
Attorney Docket No. 102286.146
For: METHODS OF INHIBITING THE BINDING OF A CD8+ T CELL TO A CLASS I MHC EMPLOYING A MODIFIED BETA 2 MICROGLOBULIN

DECISION GRANTING PETITION

This is a decision on the petition entitled, "PETITION FOR ACCEPTANCE OF DRAWINGS FILED WITH APPLICATION," filed October 15, 2002 (certificate of mailing date October 9, 2002), requesting, in effect, partial withdrawal of the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed August 5, 2002 insofar as it alleges that figures 2-6 as described in the specification were omitted. The petition will be treated under 37 CFR 1.53(e).

The application was deposited on June 17, 2002. On August 5, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioner that drawing figures 2-6 described in the specification appeared to have been omitted.

In response to the Notice, petitioner timely filed the present petition. Petitioner requests that drawing figures 2-6 be accorded a filing date of June 17, 2002 on the basis that 19 sheets of drawing figures, including drawing figures 2-6, were received in the Patent and Trademark Office (PTO) on June 17, 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 June 17, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 19 sheets of drawings. A review of the application file reveals that only 13 pages are present. Those missing include pages 3/19 - 8/19, which correspond to figures 2-6.

The return postcard constitutes *prima facie* evidence that 19 sheets of drawing figures, including drawing figures 2-6, were filed on June 17, 2002. MPEP 503. Accordingly, the request is granted.

The $130.00 petition fee will be credited to deposit account no. 08-0219.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of June 17, 2002, using the 32 sheets of replacement drawings of figures 1-15 that were submitted on December 2, 2002.

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

E. Shirene Willis

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

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United States Patent and Trademark Office
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JUN 13 2005

BROUSE McDOWELL
Timothy D. Smith
500 First National Tower
106 S. Main Street
Akron, OH 44308-1471

In re application of:
Axel Schaedler et al.
Application No. 10/173,172 : DECISION ON REQUEST
Filed: June 17, 2002 : FOR WITHDRAWAL OF
For: ZTR with steerable wheels : ATTORNEY

This is a decision on the request filed on April 1, 2005, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

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 a reason for the withdrawal under condition B) above.

As to condition B), a proper reason for withdrawal as enumerated in 37 CFR 10.40(b) subsections (1)-(4) or subsections (1)-(6) of 37 CFR 10.40(c) must be provided.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6611

SNM/dew: 6/1/05

COPY OF PAPERS ORIGINALLY FILED

MP/ #3 $

Response To Notice To File Missing Parts Of Application Filing Date Granted (PTO-1533)(Large Entity)	Docket No. DESHMUKH 7

In Re Application Of: **RAJAN D. DESHMUKH**

AUG 1 9 2002 PATENT & TRADEMARK OFFICE

Serial No.	Filing Date	Examiner	Group Art Unit
10/173,182	06/17/2002	TBA	2827

Invention: **FLIP CHIP SEMICONDUCTOR DEVICE AND METHOD OF MAKING THE SAME**

TO THE ASSISTANT COMMISSIONER FOR PATENTS:

Box Missing Parts

This is a response to the Notice to File Missing Parts of Application - Filing Date Granted (PTO-1533) mailed on 07/18/2002 (*Date*).

Enclosed herewith for filing are the following:

- ☒ A copy of the Notice to File Missing Parts of Application - Filing Date Granted (PTO-1533). **(REQUIRED)**
- ☒ An oath or declaration in compliance with 37 CFR 1.63, including residence information and identifying the application by the above Application Number and Filing Date.
- ☐ A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date.
- ☐ An oath or declaration in compliance with 37 CFR 1.63 listing the names of all inventors and signed by the omitted inventor(s), identifying this application by the above Application Number and Filing Date.
- ☐ A verified English translation of the non-English language application papers as originally filed. It is requested that this translation be used as the copy for examination purposes in the United States Patent and Trademark Office.
- ☐ Other (list):

P31LARGE/REV03

Response To Notice To File Missing Parts Of Application Filing Date Granted (PTO-1533)(Large Entity)	Docket No. DESHMUKH 7

In Re Application Of: **RAJAN D. DESHMUKH**

Serial No.	Filing Date	Examiner	Group Art Unit
10/173,182	06/17/2002	TBA	2827

Invention: **FLIP CHIP SEMICONDUCTOR DEVICE AND METHOD OF MAKING THE SAME**

TO THE ASSISTANT COMMISSIONER FOR PATENTS:

Box Missing Parts

☐ Completion of application fees as calculated below:

☐ Utility application filing fee	_____
☐ Design application filing fee	_____
☐ Total number of independent claims = _____	_____
☐ Total number of claims = _____	_____
☐ Multiple dependent claims	_____
☒ Surcharge for late payment of filing fee and/or late filing of original declaration or oath	$130.00
☐ Petition and fee for filing by other than all the inventors or a person not the inventor	_____
☐ Fee for processing an application filed with a non-English language specification	_____
☐ Fee for processing and retention of application	_____
Total completion of application fees	_____

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a response to the above-identified Notice to File Missing Parts of Application. The requested extension is as follows (check time period desired). If an additional time extension is required, please consider this a petition therefor.

☐ One month ☐ Two months ☐ Three months ☐ Four months ☐ Five months

from: _____ *Date* until: _____ *Date*

Total time extension fees _____

Total fees due _____

P31LARGE/REV02

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 #3

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WASHINGTON, D.C. 20231
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/173,182	06/17/2002	Rajan D. Deshmukh	Deshmukh 6

OIPE JC46
AUG 19 2002
PATENT & TRADEMARK OFFICE

LOWENSTEIN SANDLER PC
65 LIVINGSTON AVENUE
ROSELAND, NJ 07068

CONFIRMATION NO. 5268

FORMALITIES LETTER

OC000000008465679

Date Mailed: 07/18/2002

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.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Hosheng Tu
15 Riez
Newport Beach, CA 92657

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JUL 22 2004

OFFICE OF PETITIONS

In re Application of	:	ON PETITION
Rodolfo C. Quijano, et. al.	:	
Application No. 10/173,188	:	
Filed: June 17, 2002	:	
Attorney Docket No. QT-76	:	

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

The above-identified application became abandoned for failure submit the issue fee in a timely manner in reply to the Notice of Allowance mailed March 19, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned after midnight June 21, 2004.

In response, petitioner submitted with the instant petition $665 for the petition to revive fee, $665 for the issue fee, $300 for the publication fee, $9 for three (3) advance soft copies, and a Change of Correspondence Address.

Since there is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application in accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, the Change of Correspondence Address filed with the instant petition will not be entered. Therefore, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

The petition is **GRANTED**.

The application file is being forwarded to the Office of Publications for further processing into a patent.

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

CC: Steven J. Corr
Jones Day
555 West Fifth Street - Suite 4600
Los Angeles, CA 90013-1025

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Mail Date: 04/20/2010

Applicant	: Francois Frederic Ozog	: DECISION ON REQUEST FOR
Patent Number	: 7657747	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/173,204	: 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 **828** 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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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 04/20/2010

Applicant	: Messay Amerga	: DECISION ON REQUEST FOR
Patent Number	: 7593367	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/173,209	: 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 **1228** 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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FISH & RICHARDSON PC
12390 EL CAMINO REAL
SAN DIEGO CA 92130

In re Application	:	
Wayne Stephen Holmes	:	
Application No. 10/173,226	:	DECISION ON PATENT TERM
Filed: June 13, 2002	:	ADJUSTMENT
Attorney Docket No. 14214-0020001	:	

This is a decision on the "PETITION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR §1.705(b)," filed June 21, 2006, requesting correction of the patent term adjustment (PTA) indicated on the patent from two hundred thirty-three (233) days to four hundred twenty-nine (429) days.

The application for patent term adjustment is **GRANTED** to the extent indicated herein.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **three hundred ninety-eight (398) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On March 23, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is two hundred thirty-three (233) days. On June 21, 2006, Applicant timely[1] submitted the instant application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is four hundred twenty-nine (429) days.

Applicant asserts entitlement to a patent term adjustment of four hundred twenty-nine (429) days on the basis that the PTO improperly assessed Applicant a delay of one hundred sixty-five (165) days for filing a Supplemental Response on September 16, 2005, after Applicants had filed a response on April 4, 2005. In addition, Applicant argues that the forty-five (45) days was in error. According to Applicant, he should have only been assessed fourteen (14) days pursuant to 37 C.F.R. § 1.704(b).

Applicant fails to state whether the patent issuing from the application is subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of two hundred thirty-three (233) days based on an adjustment for PTO delay of four hundred twenty-one (421) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1) and one hundred nine (109) days pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. § 1.703(a)(2), reduced by Applicant's delay of eighty-seven (87) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and one hundred sixty-five (165) and forty-five (45) days pursuant to 35 U.S.C. 154(b)(2)(C)(i) and 37 C.F.R. § 1.704(c)(8). The adjustments of 165 and 45 days are at issue.

A review of the application file reveals that the supplemental reply stated that it was being filed in response to a telephone interview with the Examiner conducted three days earlier.

In view of the above, it is concluded that the supplemental reply was expressly requested by the Examiner. As such, no applicant delay should have been assessed.

However, Applicant's argument that he should only have been assessed fourteen (14) days of delay is not persuasive. The Office mailed an Ex-Parte Quayle Action on November 21, 2005.

---

[1] Applicants filed the application for patent term adjustment on the same day as the issue fee.

Applicant filed a response on January 20, 2006. However, the response was not proper, and therefore the Office mailed a non-responsive reply notice on February 6, 2006. Applicant filed a proper response on March 6, 2006, and pursuant to 37 C.F.R. § 1.704(c)(7), was properly assessed delay of forty-five (45) days. 37 C.F.R. § 1.704(b) does not apply where an applicant files a response containing an omission.

Accordingly, the correct determination of PTA at the time of mailing of the Notice of Allowance is **three hundred ninety-eight (398) days** (530 (421+107) days of PTO delay and 132 (87+45) days of applicant delay).

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

The application file 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.

Kery A. Fries

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

CC: Draft Certificate of Correct
Adjusted Patent Calculation

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,089,047

DATED : August 8, 2006

INVENTOR(S) : Wayne Stephen Holmes

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 (233) days

Delete the phrase "by 233 days" and insert – by 398 days—

Day : Wednesday

PALM INTRANET

Date: 8/2/2006
Time: 09:20:02

PTA Calculations for Application: 10/173226			
Application Filing Date:	06/13/2002	PTO Delay (PTO):	530
Issue Date of Patent:	08/08/2006	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	297
Post-Issue Petitions:	0	Total PTA (days):	398
PTO Delay Adjustment:	165		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
67	08/02/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	165		
64.5	07/19/2006	PTA 36 MONTHS			
64	08/08/2006	PATENT ISSUE DATE USED IN PTA CALCULATION			
63	07/12/2006	EXPORT TO FINAL DATA CAPTURE			
62	07/11/2006	DISPATCH TO FDC			
61	07/11/2006	APPLICATION IS CONSIDERED READY FOR ISSUE			
60	07/11/2006	CORRESPONDENCE ADDRESS CHANGE			
59	06/21/2006	ISSUE FEE PAYMENT VERIFIED			
58	07/01/2006	FINISHED INITIAL DATA CAPTURE			
57	06/21/2006	ISSUE FEE PAYMENT RECEIVED			
56	03/27/2006	EXPORT TO INITIAL DATA CAPTURE			
55	03/23/2006	MAIL NOTICE OF ALLOWANCE			
54	03/21/2006	ISSUE REVISION COMPLETED			
53	03/20/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
52	03/20/2006	NOTICE OF ALLOWABILITY			
51	03/15/2006	DATE FORWARDED TO EXAMINER			
50	03/06/2006	RESPONSE AFTER EX PARTE QUAYLE ACTION		45	47
49	02/06/2006	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
48	01/31/2006	DATE FORWARDED TO EXAMINER			
47.1	01/20/2006	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
47	01/20/2006	RESPONSE AFTER EX PARTE QUAYLE ACTION			
46	11/21/2005	MAIL EX PARTE QUAYLE ACTION (PTOL - 326)	109		41

45	11/17/2005	EX PARTE QUAYLE ACTION			
44	09/27/2005	DATE FORWARDED TO EXAMINER			
43	09/16/2005	SUPPLEMENTAL RESPONSE		165	41
42	09/13/2005	DATE FORWARDED TO EXAMINER			
41	04/04/2005	RESPONSE AFTER NON-FINAL ACTION			
40	09/13/2005	MAIL OF WITRHDRAW OF INFORMAL AMENDMENT NOTICE			
39	09/13/2005	WITHDRAW OF INFORMAL AMENDMENT NOTICE			
31	04/13/2005	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
28	04/04/2005	MISCELLANEOUS INCOMING LETTER			
27	04/13/2005	DATE FORWARDED TO EXAMINER			
26.1	04/04/2005	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
26	04/04/2005	RESPONSE AFTER NON-FINAL ACTION		87	24
25	04/04/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
24	10/07/2004	MAIL NON-FINAL REJECTION	421		-1
23	10/07/2004	NON-FINAL REJECTION			
22	07/26/2002	REFERENCE CAPTURE ON IDS			
21	07/26/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	09/08/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
19	04/02/2004	CASE DOCKETED TO EXAMINER IN GAU			
18	04/02/2004	CASE DOCKETED TO EXAMINER IN GAU			
17	02/09/2004	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
16	04/09/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	03/10/2004	CASE DOCKETED TO EXAMINER IN GAU			
14	09/30/2003	TRANSFER INQUIRY TO GAU			
13	07/15/2003	TRANSFER INQUIRY TO GAU			
12	04/15/2003	TRANSFER INQUIRY TO GAU			
11	04/08/2003	TRANSFER INQUIRY TO GAU			
10	10/10/2002	APPLICATION DISPATCHED FROM OIPE			
9	10/09/2002	APPLICATION IS NOW COMPLETE			
7	09/03/2002	ADDITIONAL APPLICATION FILING FEES			
		A STATEMENT BY ONE OR MORE INVENTORS			

6	09/03/2002	SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	07/22/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	07/01/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	07/01/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	06/13/2002	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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WONG, CABELLO, LUTSCH, RUTHERFORD &
BRUCCULERI, L.L.P.
20333 SH 249
SUITE 600
HOUSTON, TX 77070

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OFFICE OF PETITIONS

In re Patent No. 7,020,706	:	
Issue Date: March 28, 2006	:	
Application No. 10/173,278	:	ON PETITION
Filed: June 17, 2002	:	
Attorney Docket Number: 1308	:	

This is a decision regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed March 16, 2006.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc.. 154 F.33d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

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

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted and the petition is **GRANTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3282.

This file is being forwarded to the Files Repository.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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INCORPORATED
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DALLAS, TX 75265

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OFFICE OF PETITIONS

In re Application of

Muharemovic, et al. :

Application No. 10/173,282

: DECISION ON PETITION

Filed: June 17, 2002

:

Attorney Docket No. TI-33189

This is a decision on the petition under 37 CFR 1.137(b), filed July 10, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 6, 2006, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on January 7, 2007. A Notice of Abandonment was mailed on April 19, 2007.

The amendment filed July 10, 2007, is noted.

The application is being forwarded to Technology Center 2600, GAU 2611 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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SAWYER LAW GROUP LLP
P.O. BOX 51418
PALO ALTO, CA 94303

In re Application of
Haijun Yuan et al
Application No. 10/173,290
Filed: June 17, 2002
Attorney Docket No. 2522P

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed September 29, 2003, under 37 CFR 1.137(f), which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application.

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on June 17, 2003. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

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

(1) the 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 Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

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

Any inquiries concerning this decision may be directed to Irvin Dingle at (703) 306-5684.

This application is being forwarded to Technology Center 2800, Art Unit 2871 for appropriate action in due course on the reply received December 4, 2003 to the nonfinal office action of September 4, 2003.

Frances Hicks

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

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JOHNSON & JOHNSON
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NEW BRUNSWICK NJ 08933-7003

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In re Application of	:	
Govari et al.	:	
Application No. 10/173,298	:	ON PETITION
Filed: June 17, 2002	:	
Attorney Docket No. BIO-183	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 23, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed January 12, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on April 13, 2006. A Notice of Abandonment was mailed on May 16, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.[2]

---

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

[2] See MPEP 711.03(c)(III)(C) and (D).

The instant petition lacks item (1). In the Response to Notice of Abandonment, petitioner stated that he wanted to file a Request for Continued Examination (RCE), but had missed the deadline. It is unclear if petitioner still wishes to file the RCE. Although petitioner did include the authorization to charge any additional fees, charging the requisite issue/publication fees at this time would require a Petition to Withdraw from Issue under 37 CFR 1.313 to be submitted with the RCE. Petitioner should clarify the situation and submit the RCE, if still desired, with payment of the issue/publication fees in response to this decision.

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

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

By hand: Customer Window located at:

U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Chase
Petitions Examiner
Office of Petitions

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NEW BRUNSWICK, NJ 08933-7003

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OFFICE OF PETITIONS

In re Application of :
Assaf Govari et al :
Application No. 10/173,298 : ON PETITION
Filed: June 17, 2002 :
Attorney Docket No. BIO-183

This is a decision on the renewed petition filed, August 28, 2006 under 37 CFR 1.137(b), to revive the above-identified application. This is also a decision on the petition under 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

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

The petition under 37 CFR 1.313(c)(2) 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, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3737 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

---

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

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OFFICE OF PETITIONS

In re Application of :
Assaf Govari, et al. :
Application No. 10/173,339 : ON PETITION
Filed: June 17, 2002 :
Attorney Docket No. BIO-182 :

This is a decision in response to the petitions, filed March 18, 2009, under (1) 37 CFR 1.137(b) to revive the above-identified application and (2) 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue.

The petitions are **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before May 27, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed February 26, 2008, which set a statutory period for reply of three (3) months. A Notice of Abandonment was mailed on February 19, 2009.

The petition under 37 CFR 1.137(b) includes (1) the reply in the form of the $1,510 issue fee and the $300 publication fee; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay. Accordingly, the petition is found to comply with the requirements of 37 CFR 1.137(b).

The petition under 37 CFR 1.313(c)(2) includes, *inter alia*, (1) the petition fee of $130; (2) a Request for Continued Examination (RCE) and fee of $810; and (3) an Information Disclosure Statement (IDS). Accordingly, the petition is found to comply with the requirements of 37 CFR 1.313(c)(2).

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 18, 2009, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed,

petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being forwarded to Technology Center AU 3737 for further processing of the request for continued examination under 37 CFR 1.114.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice must be made in writing and should be accompanied by the new Issue Fee Transmittal Form PTOL-85(b), along with a copy of this decision. Additionally, if the issue fee has increased from the previously paid issue fee, the balance due must be submitted. Failure to request *in writing* that the previously paid issue fee be applied towards the new Notice and payment of any balance due will result in the abandonment of the application

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. 4

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

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SEP 23 2002

OFFICE OF PETITIONS

In re Application of	:	
Cho et al.	:	
Application No. 10/173,373	:	DECISION GRANTING
Filed: 17 June, 2002	:	PETITION
Attorney Docket No. 5649-945	:	

This is a decision on the petition captioned under 37 CFR 1.10(d) on 5 September, 2002, requesting that the above-identified application be accorded a filing date of 17 June, 2002, rather than the presently accorded filing date of 18 June, 2002.

Petitioner alleges that the application was deposited in Express Mail service on 17 June, 2002. In support, on 5 September, 2002, petitioner supplied a copy of a U.S. Postal Service Pickup Service Statement--Express Mail, Priority Mail, or Parcel Post bearing, *inter alia*, Express Mail Label No. EV015812875US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file). The USPS Service Statement also bears the signature of a USPS employee and a pickup date of "6/17/02".

In view of the above, the petition is granted.

The application is being forwarded to the Office of Initial Patent Examination for correction of the filing date to 17 June, 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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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DEC -7 2004

In re Application of Jeffery A. Patchen Serial No. 10/173,374 Filed: June 14, 2002 For: VIEWER INTERATIVE EVENT SYSTEM	:	DECISION ON PETITION TO WITHDRAW AS ATTORNEY

By papers filed on July 15, 2004, counsel has petitioned to withdraw as attorney of record in this application.

The petition is GRANTED.

Applicant is advised that the correspondence address for this application is:

Jeffery A. Patchen, President
Power to the People Productions
2071 Manhattan Avenue
Hermosa Beach, CA 90254

E. Rollins-Cross, Director
Technology Center 3700

John C. Phillips, Esq.
Fish and Richardson, P.C.
12390 El Camino Real
San Diego, CA 92130

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

JEFFER, MANGELS, BUTLER & MARMARO, LLP
1900 AVENUE OF THE STARS, 7TH FLOOR
LOS ANGELES CA 90067

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MAR 20 2007

OFFICE OF PETITIONS

In re Application of	:	
PATCHEN	:	
Application No.: 10/173,374	:	DECISION ON PETITION
Filing Date: June 14, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.: None	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 27, 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 Notice of Non-Compliant Amendment mailed March 3, 2005, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, by operation of law, the above-identified application became abandoned on April 4, 2005 (April 3, 2005 being a Sunday).

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 in compliance with 37 CFR 1.121; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Non-Compliant Amendment mailed March 3, 2005 is accepted as having been unintentionally delayed.

This application is being referred to Technology Center AU 3713 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 13

LAW OFFICE OF SANFORD J. ASMAN
570 VININGTON CT.
DUNWOODY, GA 30350

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JAN 13 2005

OFFICE OF PETITIONS

In re Application of	:	
Joel M. Brooks, et. al.	:	
Application No. 10/173,385	:	ON PETITION
Filed: June 17, 2002	:	
Attorney Docket No. 170707-1014	:	

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on November 1, 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)." Petitioner is advised that this is not a final agency decision.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment mailed January 9, 2004, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight February 9, 2004.

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

A review of the record reveals that the instant petition is signed by Matthew Montesi, who appears to be one of three (3) inventors. 37 CFR 1.33(b) states that all communications must be signed by all the applicants for patent, or an attorney or agent, unless there is an assignee of record of the entire interest, and such assignee has taken action in accordance with §§3.71 and 3.73.

If the instant petition is filed on behalf of the assignee, the petition does not comply with 37 CFR 3.73(b). 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file

related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment submitted for recording) or by specifying (*e.g.*, reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office. A blank Statement under 37 CFR 3.73(b) is enclosed with this decision.

Petitioner is asked to either re-submit the petition filed November 1, 2004, with his signature, including the other two inventors, or the signature of an attorney or agent, or that Matthew Montesi prove rightful ownership by submitting the enclosed Statement under 37 CFR 3.73(b), in accordance with 37 CFR 3.73(b), as stated above.

A courtesy copy of this decision is being mailed to petitioner using the address listed on the petition. However, future correspondence will be mailed to the attorney of record until otherwise instructed.

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: U.S. Patent and Trademark Office
220 20th Street S
Customer Window, Mail Stop Petitions
Crystal Plaza Two Lobby, Room 1B03
Arlington, VA 22202

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

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

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

Enclosure: Blank Statement under 37 CFR 3.73(b)

cc: Matthew Montesi
8160 Winged Foot Drive
Atlanta, GA 30350

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 15

LAW OFFICE OF SANFORD J. ASMAN
570 VININGTON CT.
DUNWOODY, GA 30350

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JUN 3 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Joel M. Brooks, et. al.	:	
Application No. 10/173,385	:	ON PETITION
Filed: June 17, 2002	:	
Attorney Docket No. 170707-1014	:	

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

In response to the decision mailed January 13, 2005, petitioner hereby submits the statement of unintentional delay, as required by 37 CFR 1.137(b), signed by the attorney of record.

Since the requirements under 37 CFR 1.137(b) to revive this application have now been met, the petition is **GRANTED**.

The application file is being referred to Technology Center Art Unit 3713, for review of the amendment filed November 1, 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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Paper No.

Dana Alden
MacLean-Fogg Company
1000 Allonson Road
Mundelein IL 60060

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SEP 1 5 2003

OFFICE OF PETITIONS

In re Application of	:	
Victor Almgren et al.	:	
Application No. 10/173,386	:	DECISION GRANTING PETITION
Filed: June 16, 2002	:	
Attorney Docket No. 26-9540-	:	
6520-0001	:	
Title: COMPOSITE INSULATOR FOR	:	
FUSE CUTOUT	:	

This is a decision on the petition filed August 6, 2003, requesting that application number 10/173,386 be accorded a filing date of June 16, 2002.

On July 19, 2002, the Office of Initial Patent Examination mailed a Filing Receipt, stating that the application had been accorded a filing date of June 17, 2002.

In response, on August 6, 2003, applicants filed the present petition. Petitioners have included a copy of the filing receipt, a copy of the Express Mail Label having a number of EU467535312US and a copy of the receipt associated with this label (both bear the date June 16, 2002), a copy of the first page of the application as filed, which bears the Express mail label number EU467535312US. Applicants request that application be accorded a filing date of June 16, 2002.

A check of the United States Postal Service's website (http://www.usps.com/shipping/trackandconfirm.htm) was inclonclusive. A check of the USPS Express Mail Information Database shows that the package was accepted on June 16, 2002. A copy of the search result is enclosed.

Upon review of the record, the application was accorded a filing date of June 17, 2002. However, the evidence is convincing that the application papers were deposited on June 16, 2002, and the incorrect date was subsequently assigned to the application. Therefore, the application was entitled to a filing date of June 16, 2002.

Accordingly, the petition is **GRANTED**.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of June 16, 2002, as well as the mailing of a corrected filing receipt.

Any inquiries related to this decision should be directed to the undersigned at (703) 305-0011.

Paul Shanoski

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

Encl. Copy of USPS Express Mail Information Database Printout

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Paper No. 4

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

MAILED

APR 22 2004

Technology Center 2100

In re Application of:
Bruce R. RABE et al.
Application No. 10/173,401
Filed: June 17, 2002
For: LUN SECURITY UTILITY

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

This is a decision on the petition, filed 25 March 2004, requesting the grant of special status based on M.P.E.P. §708.02, Section VIII.

M.P.E.P. §708.02, Section VIII, which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d), states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR §1.17(i);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR §1.111(b) and (c), how the claimed subject matter is patentable over the references.

The petition is deficient in that there is no statement that all claims presented are directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, Applicant will make an election without traverse as a prerequisite to the grant of special status, as required by section (b).

Accordingly, the Petition is **DISMISSED**. The application file is being forwarded to Central Files to await examination in its proper turn based on its effective filing date.

Any request for reconsideration must be filed within two months of the mailing date of this decision.

Any inquiry concerning this decision should be directed to Vincent N. Trans whose telephone number is (703) 305-9750.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

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ALEXANDRIA, VA 22313-1450
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Paper No. 7

MAILED

OCT 1 4 2004

Technology Center 2100

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

In re Application of:
Bruce R. RABE et al.
Application No. 10/173,401
Filed: June 17, 2002
For: LUN SECURITY UTILITY

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the renew petition, filed on May 17, 2004, under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

> In those instances where the request for this special status does not meet all the prerequisites set forth above, applicant will be notified and the defects in the request will be stated. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submissions of May 17, 2004 and March 25, 2004 meet all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

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

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DEC 0 6 2006

OFFICE OF PETITIONS

In re Application of	:	
SCHNEIDER, et al.	:	
Application No. 10/173,464	:	DECISION ON PETITION
Filed: June 14, 2002	:	TO WITHDRAW
Attorney Docket No. 5306P088	:	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** as moot.

A review of the file record indicates that the power of attorney to Marina Portnova of BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP has been revoked by the assignee of the patent application on September 5, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **SAM CAMPBELL**
CSA, LLP
4807 SPICEWOOD SPRING ROAD
BUILDING 4, SUITE 201
AUSTIN, TX 78759

#7

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APR 07 2004

TECHNOLOGY CENTER 2100

Paper No. 7

Linda J. Thayer
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.
1300 I Street, N.W.
Washington, DC 20005-3315

In re Application of:
W. Eidler et al.
Application No. 10/173,512
Filed: June 14, 2002
For: SECURED SHARED STORAGE ARCHITECTURE

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed March 22, 2004.

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

The request is signed by Linda J. Thayer alone and does not contain a clear indicatioin that Ms. Thayer is authorized to sign on behalf of the other attorneys of record and is signing on behalf of the other attorneys of record.

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
703-305-9750

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 9

Linda J. Thayer
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.
1300 I Street, N.W.
Washington, DC 20005-3315

MAILED

APR 30 2004

Technology Center 2100

In re Application of:
W. Eidler et al.
Application No. 10/173,512
Filed: June 14, 2002
For: SECURED SHARED STORAGE ARCHITECTURE

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed April 20, 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 April 20, 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.

for James R. Matthews

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

cc: Brian Siritzky, Esq.
HELLER EHRMAN
1600 K Street, NW, Suite 300
Washington, DC 20006

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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Davidson Berquist Jackson & Gowdey LLP
4300 Wilson Blvd., 7th Floor
Arlington, VA 22203

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MAY 17 2007

OFFICE OF PETITIONS

In re Application of	:	
Christopher William Eidler et al.	:	
Application No. 10/173,512	:	DECISION ON PETITION
Filed: June 14, 2002	:	TO WITHDRAW
Attorney Docket No. 2615-0045	:	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 16, 2007.

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

A review of the file record indicates that the power of attorney to Davidson Berquist Jackson & Gowdey LLP has been revoked by the assignee of the patent application on March 12, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Kenyon & Kenyon LLP**
One Broadway
New York, NY 10004

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

NASA GODDARD SPACE FLIGHT CENTER
OFFICE OF PATENT COUNSEL
MAIL CODE 503
GREENBELT MD 20771

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APR 03 2003

OFFICE OF PETITIONS

In re Application of
Jeanette M. Benavides et al.
Application No. 10/173,533
Filed: June 11, 2002
Attorney Docket No. GSC 14,435-1

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition filed under 37 CFR 1.47(a) on September 10, 2002.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a). and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on June 11, 2002, without an executed oath or declaration and naming Jeanette Benavides et al. as joint inventors.

Accordingly, on July 19, 2002, a "Notice To File Missing Parts of Application" was mailed, requiring an executed oath or declaration, and a surcharge for their late filing. A two month period for reply was set.

In response, on September 10, 2002, the instant petition and authorization to charge counsel's deposit account for the petition fee, a declaration signed only by Jeanette M. Benavides and Henning W. Leidecker, the last known address of Jeffrey Frazier and a letter written by Mr. Frazier, dated June 20, 2002, purportedly returning a FEDEX package were filed.

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.

Petitioners have not provided sufficient proof that a copy of the application (specification, including claims, drawings, if any, and the declaration) was sent to the non-signing inventor. The letter written by Mr. Frazier indicates that he is returning an unopened FEDEX correspondence initiated by Petitioner's office and post-marked June 14, 2002. The petition indicates only that the unopened package contained a declaration but, omits to mention

whether a copy of the application papers were sent to the non-signing inventor. There is no evidence to show that the complete application filed June 11, 2002 was sent to Mr. Frazier.

Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the application papers to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first hand knowledge of the details.

Likewise, before a *bona fide* refusal can be shown, the non-signing inventor must have been given an opportunity to review the application. Therefore, petitioners must show proof that the non-signing inventor refuses to sign the declaration after being sent or given a copy of the application papers. If there is a written refusal, petitioners should submit a copy of that refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

The fact that Mr. Frazier refused to open a package dispatched by the petitioner does not obviate the petitioner's responsibility to dispatch a complete application package and proof that the package dispatched was complete.

Additionally, the authorization provided in the petition was for charging the deposit account for the petition fee. Please be reminded upon filing a renewed petition under 37 CFR 1.47 that the surcharge in the amount of $130.00 for filing a late oath or declaration has not been paid or authorized.

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

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

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

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA 22202

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

Patricia Faison Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

NASA GODDARD SPACE FLIGHT CENTER
OFFICE OF PATENT COUNSEL
MAIL CODE 503
GREENBELT MD 20771

COPY MAILED

JUN 0 5 2003

OFFICE OF PETITIONS

In re Application of
Jeanette M. Benavides et al.
Application No. 10/173,533
Filed: June 11, 2002
Attorney Docket No. GSC 14,435-1

DECISION GRANTING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the request for reconsideration filed December 10, 2002.

The petition is **GRANTED**.

Petitioner has shown that the non-signing inventor Jeffrey C. Frazier has refused to join in the filing of the above-identified application. Specifically, the, Agent of Record, Keith Dixon, indicates that the application papers for the above identified patent application were mailed to Mr. Frazier at the last known address and that Mark A. Pudinski, counsel for Mr. Frazier, acknowledges receipt of the papers by Mr. Frazier. Further, the declaration of Mr. Dixon indicates that by his actions, Mr. Frazier has refused to execute the declaration.

The declaration has been properly executed by joint inventors Jeanette M. Benavides and Henning W. Leidecker.

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 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors 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. 9

JEFFREY C. FRAZIER
306 BAY CITY RD.
STEVENSVILLE, MD 21666

COPY MAILED

JUN 05 2003

OFFICE OF PETITIONS

In re Application of
Jeanette M. Benavides et al.
Application No. 10/173,533
Filed: June 11, 2002
For: METHOD OF MANUFACTURING CARBON NANOTUBES

Dear Mr. Frazier:

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:

NASA GODDARD SPACE FLIGHT CENTER
OFFICE OF PATENT COUNSEL
MAIL CODE 503
GREENBELT MD 20771

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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Paper No. 9

MAILED
SEP 8 2003
OFFICE OF DIRECTOR
GROUP

FULBRIGHT & JAWORSKI L.L.P.
2200 Ross Avenue
Suite 2800
Dallas, TX 75201-2784

In re Application of:
YU *et al.*
Application No. 10/173,543
Filed: June 17, 2002
Attorney Docket No.: 50767/P044US/10205629

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102, filed March 17, 2003, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02, Item VIII: Accelerated Examination.

A grantable petition to make special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P., Section 708.02, Item VIII, must be accompanied by (a) the fee set forth in 37 C.F.R. § 1.17(i), (b) a statement that all claims are directed a single invention or an offer to make an oral election without traverse should the Patent and Trademark Office hold that the claims are not directed to a single invention, (c) a statement that a pre-examination search has been made by the inventor, attorney, agent, professional searcher, etc., and a listing of the field of search by class and subclass, (d) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims, and (e) a detailed description of the submitted references and discussions pointing out how the claimed subject matter is distinguishable over these references.

The petition does not fully comply with item (b) above. To expedite the examining proceeding of this application, this decision is rendered based on the assumption that should the examiner hold that the claims are not directed to a single invention, applicant is hereby required to make an oral election without traverse. Failure to make an oral election without traverse would result in the application file being returned to the Group Director's office for issuance of a decision vacating this decision and withdrawing the special status granted hereby.

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

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

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

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

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

The petition is granted to the extent indicated.

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

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

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

COPY MAILED
JUN 1 8 2004
OFFICE OF PETITIONS

Applicant: Schilling
Appl. No.: 10/173,547
Filed: June 14, 2002
Title: SYSTEMS AND METHODS FOR CONSTRUCTING GENOMIC-BASED PHENOTYPIC MODELS
Attorney Docket No.: 66662-011
Pub. No.: US 2003/0233218 A1
Pub. Date: December 18, 2003

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was received on February 18, 2004.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication published with Figures 1-18, not Formal Drawings 1-32 submitted with this request, which correspond to Figures 1-18.

According to 37 CFR 1.215(a), which says the following, in part:

> (a) ... The patent application publication will not include any amendments, including preliminary amendments, unless applicant supplies a copy of the application containing the amendment pursuant to paragraph (c) of this section.

§ 1.215(c) says the following:

> (c) At applicant's option, the patent application publication will be based upon the copy of the application (specification, drawings, and oath or declaration) as amended during examination, provided that applicant supplies such a copy in compliance with the Office electronic filing system requirements **within one month of the actual filing date of the application or fourteen months of the earliest filing date for which is sought under title 35, United States Code, whichever is later**.

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." 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 applicant did not supply a copy of the application in compliance with § 1.215(c). The patent application publication does not include a mistake in the publication by the Office because patent application publication was published as filed.[2]

Applicant is reminded of her duty to conduct a reasonable inquiry before filing a paper before the Office. See MPEP 410.

Applicant's request for a corrected patent application publication on February 18, 2004, may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the application." See 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

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

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

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

By facsimile: 703-872-9306

The application will be examined in due course.

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

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

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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 Patent Application Publications May Now Include Amendments, 1281 Off. Gaz. Pat. Office Notices 53 (April 13, 2004).

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www.uspto.gov

MAR 18 2004

STEPHEN B. MAEBIUS
FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of	:
Rosalyn D. Blumenthal et al	:
Serial No.: 10/173,550	: WITHDRAWAL OF ATTORNEY
Filed: June 14, 2002	:
Attorney Docket No.: 018734-0200	:

This is in response to applicants' attorneys' request, filed February 26, 2004, to withdraw from representation in the above identified application.

37 CFR 10.40 Withdrawal from employment.
(b) Mandatory withdrawal . A practitioner representing a client before the Office shall withdraw from employment if:
(1) The practitioner knows or it is obvious that the client is bringing a legal action, commencing a proceeding before the Office, conducting a defense, or asserting a position in litigation or any proceeding pending before the Office, or is otherwise having steps taken for the client, merely for the purpose of harassing or maliciously injuring any person;
(2) The practitioner knows or it is obvious that the practitioner's continued employment will result in violation of a Disciplinary Rule;
(3) The practitioner's mental or physical condition renders it unreasonably difficult for the practitioner to carry out the employment effectively; or
(4) The practitioner is discharged by the client.
(c) Permissive withdrawal. If paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matters pending before the Office unless such request or such withdrawal is because:
(1) The petitioner's client:
(i) Insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law;
(ii) Personally seeks to pursue an illegal course of conduct;
(iii) Insists that the practitioner pursue a course of conduct that is illegal or that is prohibited under a Disciplinary Rule;
(iv) By other conduct renders it unreasonably difficult for the practitioner to carry out the employment effectively;
(v) Insists, in a matter not pending before a tribunal, that the practitioner engage in conduct that is contrary to the judgment and advice of the practitioner but not prohibited under the Disciplinary Rule; or
(vi) Has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time or has failed to honor an agreement to pay a retainer in advance of the performance of legal services.
(2) The practitioner's continued employment is likely to result in a violation of a Disciplinary Rule;
(3) The practitioner's inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal;
(4) The practitioner's mental or physical condition renders it difficult for the practitioner to carry out the employment effectively;
(5) The practitioner's client knowingly and freely assents to termination of the employment; or

(6) The practitioner believes in good faith, in a proceeding pending before the Office, that the Office will find the existence of other good cause for withdrawal.

Applicants' attorney has provided no reason for withdrawal, as required.

The request to withdraw is **DISMISSED**.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

Mail Date: 04/21/2010

Applicant	: Louis P. Slothouber	: DECISION ON REQUEST FOR
Patent Number	: 7613790	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/173,565	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/18/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1080** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

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JUN 13 2007

OFFICE OF PETITIONS

In re Application of	:	
Gonzalo SERAFICA, et al	:	
Application No. 10/173,576	:	DECISION ON PETITION
Filed: June 18, 2002	:	TO WITHDRAW
Attorney Docket No. 505827-0009	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 17, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Foley and Lardner LLP has been revoked by the assignee of the patent application on April 16 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

There is an outstanding Office action mailed March 15, 2007 that requires a reply by the applicant.

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

April Wise
Petitions Examiner
Office of Petitions

cc: LANA KNEDLIK
STINSON MORRISON HECKER LLP
1201 WALNUT, SUITE 2900
KANSAS CITY, MO 64119

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 8

MAILED

FEB 04 2003

Technology Center 2600

PENNIE & EDMONDS LLP
1667 K STREET NW
SUITE 1000
WASHINGTON DC 20006

In re Application of :
Israel Smilanski et al :
Application No. 10/173,579 :
Filed: June 18, 2002 :
For: **LIGHT SOURCE FOR GENERATING AN OUTPUT SIGNAL HAVING SPACED APART FREQUENCIES** :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on January 14, 2003.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All attorneys and agents of record in this application are removed from 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.

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

cc: Isaac Shpantzer, Ph. D.
Chief Technical Officer
CeLight, Inc.
12200 Tech Road, Suite 300
Silver Spring, MD 20904

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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McDERMOTT WILL & EMERY LLP
600 13TH STREET NW
WASHINGTON, DC 20005-3096

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MAR 09 2007

OFFICE OF PETITIONS

In re Application of	:
Hideaki Horie et al	:
Application No. 10/173,612	: DECISION GRANTING PETITION
Filed: June 19, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 50195-307	:

This is a decision on the petition, filed March 7, 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 February 7, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1745 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

OIPE JC34
SEP 2 3 2002
PATENT & TRADEMARK OFFICE

Patent
Attorney's Docket No. 033033-011

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of	
Wolfgang SCHEEL et al.	Group Art Unit: 2811
Application No.: 10/173,625	Examiner: Unassigned
Filed: June 19, 2002	Confirmation No.: 4711
For: MULTILAYER PRINTED BOARD	

TRANSMITTAL LETTER FOR MISSING PARTS OF APPLICATION

BOX: MISSING PART
Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

In complete response to the Notice to File Missing Parts of Application Under 37 C.F.R. § 1.53(b) dated July 22, 2002, enclosed please find:

[X] a Combined Declaration and Power of Attorney signed by the inventor(s);

[ ] Note that the inventor(s) identified on the currently filed Combined Declaration and Power of Attorney is different from those listed on the application filing papers.

[X] the surcharge of [ ] $65.00 (205) [X] $130.00 (105) as set forth in 37 C.F.R. § 1.16(e);

[ ] a Request for Refund;

[ ] a Petition for Extension of Time;

[ ] a verified English translation of the Application, and the $130.00 (139) fee as set forth in 37 C.F.R. § 1.17(k);

[X] an Assignment document and a separate check for the $40.00 (581) Assignment recordation fee;

[ ] drawings for publication;

[ ] other _____;

[X] a check in the amount of $ 130.00 for the fee due for missing parts; and

[ ] charge $ _____ to Deposit Account No. 02-4800 for the fee due for missing parts.

[ ] Small entity status is hereby claimed.

The Commissioner is hereby authorized to charge any appropriate fees under 37 C.F.R. §§ 1.16, 1.17 and 1.21 that may be required by this paper, and to credit any overpayment, to Deposit Account No. 02-4800. This paper is submitted in duplicate.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

P.O. Box 1404
Alexandria, Virginia 22313-1404
(703) 836-6620

By: Elaine P. Spatz RN. 40,116
for Robert S. Swecker
Registration No. 19,885

Date: September 23, 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/173,625	06/19/2002	Wolfgang Scheel	033033-011

Robert S. Swecker
BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. Box 1404
Alexandria, VA 22313-1404

CONFIRMATION NO. 4711
FORMALITIES LETTER
OC000000008487291

OIPE JC34
SEP 23 2002
PATENT & TRADEMARK OFFICE

Date Mailed: 07/22/2002

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of $130 for a non-small entity, must be submitted with the missing items identified in this letter.

Items Required To Avoid Processing Delays:

The item(s) indicated below are also required and should be submitted with any reply to this notice to avoid further processing delays.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$130** for a Large Entity

- **$130** Late oath or declaration Surcharge.

09/24/2002 NMOHAMM1 00000111 10173625
01 FC:105 ..... 130.00 OP

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

Customer Service Center

BURNS, DOANE, SWECKER & MATHIS, L.L.P. RECEIVED
JUL 25
DOCKETED

Initial Patent Examination Division (703) 308-1202

PART 1 - ATTORNEY/APPLICANT COPY

UNITED STATES
PATENT AND
TRADEMARK OFFICE

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

#4

HUNTON & WILLIAMS
1900 K STREET, NW
WASHINGTON, DC 20006

In re Application of	:	
Andrew A. Baker	:	PETITION DECISION
Serial No.: 10/173,630	:	
Filed: June 19, 2002	:	
For: Absorbent Core With Folding Zones For	:	
Absorbency Distribution	:	

This is in response to the petition applicant filed on January 28, 2003 to make the above-identified application special under the provisions of 37 CFR 1.102(d).

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

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

Should there be any questions with regard to this letter please contact John Kittle by letter addressed to the Director, Technology Center 3700 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
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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

COPY MAILED

SEP 2 5 2007

OFFICE OF PETITIONS

In re Application of	:
Chiu, et al.	: DECISION ON APPLICATION
Application No. 10/173,676	: FOR PATENT TERM ADJUSTMENT
Filed: June 19, 2002	:
Attorney Docket No. 06484.0114	:

This decision is in response to the "NOTICE OF ERROR IN THE DETERMINATION OF PATENT TERM ADJUSTMENT", filed January 11, 2007, notifying the Office of an error in Applicants' 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 was **zero (0)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On January 4, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is one hundred one (101) days.

The Office initially determined a patent term adjustment of one hundred one (101) days based on an adjustment for PTO delay of thirty-six (36) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), and two hundred six (206) days pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. § 1.703(a)(2), reduced by thirty-one (31) days of applicant delay pursuant to 35 U.S.C. § 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b) and one hundred ten (110) days pursuant to 37 C.F.R. 1.704(c)(7).

Applicants state that the total PTA should be reduced because they filed a non-compliant Amendment. The Office mailed a non-final Office action on December 1, 2004. Applicants filed an Amendment on April 1, 2005, and were assessed applicant delay of thirty-one (31) days. In response, the Office mailed a Restriction Requirement on February 23, 2006. Accordingly, the Office was assessed delay of two hundred six (206) days. Applicants timely filed a reply to the Restriction Requirement on March 24, 2006. The Office then mailed a Notice of Non-Compliant Amendment on June 13, 2006, stating that the April 1, 2005 Amendment was non-compliant. Applicants filed a reply on July 12, 2006, and were assessed applicant delay of one hundred ten (110) days pursuant to 37 C.F.R. 1.704(c)(7).

1.704(c)(7) states that the following will be considered a failure to engage in reasonable efforts to concluded examination:

> Submission of a reply having an omission (§1.135(c)), in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed;

Here, the date after the reply having an omission was filed was April 2, 2005, while the date that the reply correcting the omission was filed was July 12, 2006. Accordingly, applicant delay of four hundred sixty-seven (467) days should have been assessed, not one hundred ten (110) days.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is **zero (0)** days (242 days of PTO delay, reduced by 498 (31+467) days of applicant delay).

No petition fee was required and none has been charged. The Office thanks Applicants for their good faith and candor in bringing this matter to the attention of the Office.

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

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

Kery A Fries
for

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of adjusted PAIR calculation

Day : Tuesday
Date: 9/25/2007

PALM INTRANET

Time: 09:55:14

PTA Calculations for Application: 10/173676			
Application Filing Date:	06/19/2002	PTO Delay (PTO):	242
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	141
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-357		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
65	09/25/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	110		
64	09/25/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		467	
49	10/16/2006	MAIL NOTICE OF ALLOWANCE			
48	10/03/2006	ISSUE REVISION COMPLETED			
47	10/03/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
46	09/28/2006	NOTICE OF ALLOWABILITY			
45	08/22/2006	CASE DOCKETED TO EXAMINER IN GAU			
44	07/19/2006	DATE FORWARDED TO EXAMINER			
43	07/12/2006	RESPONSE TO ELECTION / RESTRICTION FILED		110	40
42	06/13/2006	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
41	03/29/2006	DATE FORWARDED TO EXAMINER			
40.1	03/24/2006	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
40	03/24/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
39	02/23/2006	MAIL RESTRICTION REQUIREMENT	206		34
38	02/21/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
37	11/16/2005	CASE DOCKETED TO EXAMINER IN GAU			
36	09/21/2005	CASE DOCKETED TO EXAMINER IN GAU			
35	04/08/2005	DATE FORWARDED TO EXAMINER			
34	04/01/2005	RESPONSE AFTER NON-FINAL ACTION		31	31
33	04/01/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
32	04/08/2005	CORRESPONDENCE ADDRESS CHANGE			
31	12/01/2004	MAIL NON-FINAL REJECTION			
30	11/29/2004	NON-FINAL REJECTION			

29	09/16/2004	DATE FORWARDED TO EXAMINER			
28	09/03/2004	RESPONSE AFTER NON-FINAL ACTION			
27	09/03/2004	WORKFLOW INCOMING AMENDMENT IFW			
26	06/21/2004	MAIL NON-FINAL REJECTION			
25	06/18/2004	NON-FINAL REJECTION			
24	04/13/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
23	04/13/2004	DATE FORWARDED TO EXAMINER			
22	03/25/2004	RESPONSE AFTER NON-FINAL ACTION			
21	12/31/2003	MAIL NON-FINAL REJECTION			
20	12/29/2003	NON-FINAL REJECTION			
19	10/15/2003	DATE FORWARDED TO EXAMINER			
18	10/08/2003	RESPONSE TO ELECTION / RESTRICTION FILED			
17	09/24/2003	MAIL RESTRICTION REQUIREMENT	36		-1
16	09/22/2003	REQUIREMENT FOR RESTRICTION / ELECTION			
15	05/06/2003	CASE DOCKETED TO EXAMINER IN GAU			
14	06/19/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	09/26/2002	NEW OR ADDITIONAL DRAWING FILED			
12	02/05/2003	CASE DOCKETED TO EXAMINER IN GAU			
11	10/28/2002	APPLICATION DISPATCHED FROM OIPE			
10	10/08/2002	APPLICATION IS NOW COMPLETE			
9	09/26/2002	ADDITIONAL APPLICATION FILING FEES			
8	09/26/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
7	09/26/2002	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
6	08/25/2002	RECEIPT OF ALL ACKNOWLEDGEMENT LETTERS			
5	07/19/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	07/09/2002	REFERRED BY L&R FOR THIRD-LEVEL SECURITY REVIEW. AGENCY REFERRAL LETTER GENERATED			
3	07/08/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	07/03/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	06/19/2002	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back use Back button on your browser toolbar.

Back to PALM | ASSIGNMENT | OASIS | Home page

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 7

THOMAS F. MEAGHER
KENYON & KENYON
ONE BROADWAY
NEW YORK, N.Y. 10004

COPY MAILED

MAY 0 1 2003

OFFICE OF PETITIONS

In re Application of :
Stephen R. Forrest et al :
Application No. 10/173,682 : NOTICE
Filed: June 18, 2002 :
Attorney Docket No. 10020/23301 :

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

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ALEXANDRIA, VA 22313-1450
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Paper No. 15

MERONI & MERONI
P.O. BOX 309
BARRINGTON, IL 60011

COPY MAILED

APR 0 5 2004

OFFICE OF PETITIONS

In re Application of
Doan, Jimmy-Quang V.
Application No. 10/173,685
Filed: June 12, 2002
Attorney Docket No. 02056

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 29, 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 final Office action mailed September 25, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on December 26, 2003. A Notice of Abandonment was mailed on February 20, 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 3600 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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UR

FEB 25 2003

PAPER NO. 10

In re Application of	:	
William Begell	:	
Serial No: 10/173,710	:	PETITION UNDER
Filed: June 19, 2002	:	M.P.E.P. 708.02, IV
For: TREATMENT OF ORGANIC WASTE AND SLUDGE	:	

This is in response to the petition filed November 20, 2002, requesting that the above-identified application be granted Special Status under Section 708.02, IV of the MPEP and 37 CFR 1.102(c).

The petition has been considered and found to comply with the requirements set forth under the above-noted section. Accordingly, the petition is granted.

The petition is **GRANTED.**

JMStone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Kenyon & Kenyon
1500 K Street, N.W., Suite 700
Washington, DC20005

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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SERIAL NUMBER	REQUEST DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/173,721	7/22/02	SOH	SSK-100-A

Title:
METHOD AND APPARATUS FOR PRODUCING NON-PLANAR FORMED PARTS USING COMPACTION MOLDING COMPOUNDS, AND PARTS FORMED USING SAME

Art Unit	Paper Number

Correspondence Address:

JOSEPH P. CARRIER
WEINER, CARRIER & BURT
MAXIM BLDG.
42400 GRAND RIVER AVE., STE. 207
NOVI, MI 48375

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: 529,220

Grant Date: 22-Jul-02

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]

Approved for use through 04/30/2009. OMB 0651-0016
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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,751,931	2004-06-22	10/173,725	2002-06-18	03367/0210910-US0

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	/Jay P. Lessler/	Date (YYYY-MM-DD)	2008-11-19
Name	Jay P. Lessler	Registration Number	41151

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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In re Patent No. 6751931
Issue Date: June 22,2004
Application No. 10173725
Filed: June 18,2002
Attorney Docket No. BUG 2 0157

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

This is a decision on the electronic petition, filed November 19,2008 ,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 19,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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ROBERT PLOTKIN, PC
15 NEW ENGLAND EXECUTIVE OFFICE PARK
BURLINGTON, MA 01803

COPY MAILED

DEC 08 2009

OFFICE OF PETITIONS

In re Application of	:	
Jonathan Betts-Lacroix	:	
Application No. 10/173,734	:	DECISION ON PETITION
Filed: June 18, 2002	:	TO WITHDRAW
Attorney Docket No. D0000-1501	:	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 7, 2009.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request cannot be approved because practitioners were appointed by customer number. Petitioner must withdraw in the same manner by which they were appointed. Additionally, as set forth in MPEP 403(I), the addition or deletion of a practitioner from the list of persons associated with a Customer Number should be done by way of a Request for Customer Number Data Change (PTO/SB/124) and not a Request for Withdrawal As Attorney or Agent and Change of Correspondence Address (Form PTO/SB/83).

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

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

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: OQO, INCORPORATED
583 SHOTWELL STREET
SAN FRANCISCO, CA 94110-1915

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROBERT PLOTKIN, PC
15 NEW ENGLAND EXECUTIVE OFFICE PARK
BURLINGTON, MA 01803

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FEB 16 2010

In re Patent No. 7,054,963
Issue Date: May 30, 2006
Application No. 10/173,734
Filed: June 18, 2002
Attorney Docket No. D0000-1501

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the renewed Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed January 24, 2010.

The request is **NOT APPROVED**.

Request filed after a patent has issued will be placed in the file, but will generally not be treated on their merits. Sections 2540 and 2542 if the Manuel of Patent Examining Procedure (MPEP) explain that a practitioner does not have to permission to request to withdraw as practitioner of record un 37 CFR 1.36 in order to change the address in a patented file and to direct notices, receipts and other communications relating to maintenance fees. Sections 2540 and 2542 if the MPEP recommend the designation of a "fee address" or the submission of a change in the correspondence address in the patented file for directing correspondence relating to maintenance fee payments and other correspondences after issuance. See form PTO/SB/47, entitled, "*Fee Address" Indication Form* and form PTO/SB/123, entitled *Change of Correspondence address, Patent*. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

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

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: OQO, INC
583 SHOTWELL STREET
SAN FRANCISCO, CA 94110

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)
6747760	2004-06-08	10173739	2002-06-19	PEC08US

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

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☒ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

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

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

A Joint Patentee, all of whom are signing this petition			
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			
Patentee 1		Remove	
Signature	/Kia Silverbrook/	Date (YYYY-MM-DD)	2008-08-05
Name	Kia Silverbrook		
Patentee 2		Remove	
Signature	/Paul Lapstun/	Date (YYYY-MM-DD)	2008-08-05
Name	Paul Lapstun		
Patentee 3		Remove	
Signature	/Simon Robert Walmsley/	Date (YYYY-MM-DD)	2008-08-05
Name	Simon Robert Walmsley		
Additional Patentees may be generated within this form by selecting the Add Button		Add	

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6747760
Issue Date: June 8,2004
Application No. 10173739
Filed: June 19,2002
Attorney Docket No. PEC08US

:

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

:

This is a decision on the electronic petition, filed August 5,2008 ,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 August 5,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NOV 30 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Daspin & Aument, LLP
210 West 22nd Street, Suite 102
Oak Brook, IL 60523

In re application of
Peng Chen, et al.
Application No. 10/173,743
Filed: June 18, 2002
For: OPTIMAL ASSET ALLOCATION DURING RETIREMENT IN THE PRESENCE OF FIXED AND VARIABLE IMMEDIATE LIFE ANNUITIES (PAYOUT ANNUITIES)

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)

This is in response to the petition filed on June 24, 2004 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

The petition fails to adequately meet requirement (B) above. In this regard, item (B) is not met because the petition fails to include an election without traverse, or a statement that applicant is willing to elect without traverse should a restriction or election be required.

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

Petitioner is given one more opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

Applicant should promptly submit a renewed petition to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

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

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

RAR/rwg: 11/10/04

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JAN 18 2005

MAILED

JAN 18 2005

OFFICE OF THE DIRECTOR
TC 3600

Daspin & Aument, LLP
210 West 22nd Street, Suite 102
Oak Brook, IL 60523

In re application of
Peng Chen, et al.
Application No. 10/173,743
Filed: June 18, 2002
For: OPTIMAL ASSET ALLOCATION DURING RETIREMENT IN THE PRESENCE OF FIXED AND VARIABLE IMMEDIATE LIFE ANNUITIES (PAYOUT ANNUITIES)

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)

This is in response to the renewed petition filed on December 9, 2004 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02, VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

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/jwk: 01/12/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Paper No.

JONES, TULLAR & COOPER, P.C.
Eads Station
P.O. Box 2266
Arlington, VA 22202

COPY MAILED
MAY 19 2006
OFFICE OF PETITIONS

In re Application of	:	
Drahm et al.	:	DECISION ON PETITION
Application No. 10/173,748	:	
Filed: June 19, 2002	:	
Title: VISCOMETER	:	

This is a decision on the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT" filed January 25, 2006 (and resubmitted January 26, 2006).

The petition under 1.181 is **GRANTED**.

The above-identified application became abandoned for failure to reply to the Notice to File Missing Parts of Application mailed July 15, 2002. The Notice required applicants to file an executed declaration and a surcharge for its late filing. The Notice set a time limit for reply of TWO MONTHS, with extensions of time obtainable under § 1.136(a). No reply considered received and no extension obtained, the above-identified application became abandoned on September 16, 2002. A Notice of Abandonment was mailed on February 5, 2004.

In response, petitioner filed the instant petition. Petitioner states that a response to the Notice dated July 15, 2002, was timely filed on August 27, 2002. In support thereof, petitioner submitted a copy of their return postcard and the response.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date

stamped thereon by the Office. See MPEP 503. A review of petitioner's postcard receipt reveals that: 1) it was date stamped as received in the USPTO on August 27, 2002; 2) it specifically identifies the items being filed, including "executed declaration" and 3) it lacks any annotation of nonreceipt of any item denoted on the postcard. Moreover, payment of the late surcharge is of record with a mailroom date of August 27, 2002. There is no evidence that the fee payment by check was returned as nonnegotiable. Thus, the evidence shows that a complete response should be considered timely filed on August 27, 2002.

Accordingly, the Notice of Abandonment mailed February 5, 2004 is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

A courtesy copy of this decision is being mailed to the correspondence address on the petition. However, all future correspondence will be mailed to the correspondence address of record, JONES, TULLAR & COOPER, P.C., until such time as proper powers of attorney and/or changes of correspondence addresses are filed.

The Office of Initial Patent Examination (OIPE) has been advised of this decision. The application is, thereby, forwarded to OIPE for processing of the executed declaration resubmitted on petition filed January 25, 2006.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Cc: Bacon & Thomas PLLC
625 Slaters Lane - 4th Floor
Alexandria, VA 22313-1176

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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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 06/25/2010

Applicant	: Wolfgang Drahm	: DECISION ON REQUEST FOR
Patent Number	: 7634939	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/173,748	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/19/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1003** 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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SEP 19 2005

#23

Daniel E. Venglarik
Davis Munck, P.C.
Docket Clerk
P.O. Drawer 800889
Dallas TX 75380

In re Application of	:	
David B. Whitten, et al.	:	**DECISION ON PETITION**
Application No. 10/173,795	:	**TO WITHDRAW THE**
Filed: June 18, 2002	:	**HOLDING OF ABANDONMENT**

For: METHOD AND SYSTEM FOR ACCOMPLISHING PRODUCT DETECTION

This is a decision on applicant's Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181 filed in the United States Patent and Trademark Office on September 24, 2004.

The petition is **DISMISSED**.

A review of the file record indicates that the application was held abandoned for failure to timely file a response to the Office action mailed November 28, 2003 which set a three-month shortened statutory period. The application became abandoned at midnight on March 1, 2004, and a Notice to that effect was mailed on August 9, 2004.

Petitioner submitted a returned postcard identifying the response, however, the postcard bears a USPTO Mail Room receipt date of March 08, 2004. This is unacceptable evidence of a timely filed response since the period for response expired on March 01, 2004. However, petitioner also included a Certificate of Mail on the submission. The petition will be decided on the basis of 37 CFR 1.8(b).

This Petition includes a copy of a response bearing a Certificate of Mailing signed by Kathy Cedor and dated March 1, 2004.

Petitioner's evidence of a timely filing based on a Certificate of Mailing is considered to be insufficient. In this regard, any petition to withdraw the holding of abandonment based upon a Certificate of Mailing must include the following requirements:

(1) A copy of the original response bearing a signed Certificate of Mailing which includes the date of signing; and

(2) A statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of transmitting the original response on the date indicated on the Certificate of

Mailing (see 37 CFR 1.8 and MPEP 512), by the person who signed the certificate.

While meeting requirement (1) above, the petition fails under requirement (2), to also include a statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of sending the original response by Certificate of Mailing on the date indicated on the certificate, by the person who signed the certificate, in this instance Kathy Cedor. Although the certificate is also signed by Daniel Venglarik, Kathy Cedor is listed as the "mailer" of the paper, and therefore the 37 CFR 1.8(b)(3) statement must be made by Kathy Cedor.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.81."

Steven Meyers
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6611

SNM/rjc: 09/13/05

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OFFICE OF PETITIONS

In re Application of :
Whitten, et al. :
Application No. 10/173,795 :
Filed: June 18, 2002 :
Attorney Docket No. 13039:90 CIP :
For: METHOD AND SYSTEM FOR
ACCOMPLISHING PRODUCT DETECTION

ON PETITION

This is a decision on the petition, filed October 24, 2005 (certificate of mailing date October 19, 2005) under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

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

This application was held abandoned for failure to respond in a timely manner to the Notice of Allowance and Fee(s) Due, mailed on November 8, 2003, which set a three month period for reply. The Office has no record of receiving a proper reply to the November 8, 2003 Office action in application no. 10/173,795. The Office has a record of receiving only the IDS in application no. 10/173,795. Therefore, the Office considered the application abandoned on February 9, 2004. A Notice of Abandonment was mailed on August 9, 2004.

Petitioners assert that a proper response in the form of a RCE and an IDS was timely filed on certificate of mailing date March 1, 2004 and received in the Office on March 8, 2004.
In support of this assertion, petitioners have provided a copy of applicant' response that contains a proper certificate of mailing bearing a March 1, 2004 date of deposit.

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

The cover letter to the correspondence bears a proper certificate of mailing, dated March 1, 2004, in compliance with the requirements of 37 C.F.R. § 1.8(a)(1) as set forth above. In addition, the

individual who signed the certificate, Kathy Cedor, had reasonable basis to expect that the correspondence would be mailed on March 1, 2004 and has provided a statement to that effect.

In addition, petitioners have submitted an itemized postcard receipt showing an Office of Initial Patent Examination date stamp, citing March 8, 2004 as the date of receipt, affixed thereto. The postcard lists, *inter alia*, that the filing included a RCE and an IDS. The return postcard constitutes *prima facie* evidence that the items listed thereon were received in the Office on March 8, 2004. MPEP 503.

A review of the copy of the RCE reveals that petitioners listed the application number as 09/173,795. Therefore, the RCE was not associated with application no. 10/173,795's file. A review of the contents of the application no. 09/173,795's file reveals that the March 8, 2004 RCE is present.

Even though petitioners cited the wrong application number on the RCE, under MPEP 502, " A minor error in the identification of the application can be corrected by the group provided the correct identification can be quickly discovered. Examples of minor errors are transposed numbers, typographical errors, and listing the parent application number." The undersigned believes that a relatively simple review of Office records would have yielded the correct application number to enable the Office to match the March 8, 2004 correspondence with this application file. A cross-referencing of any of the accurate identifiers found on the RCE with Office databases would have revealed the typographical error.

The undersigned will request that the March 8, 2004 RCE be removed from the file of application no. 09/173,795 and placed in the file of the above-identified application.

The March 8, 2004 (certificate of mailing date March 1, 2004) RCE was timely filed. Accordingly, the petition is **GRANTED**, the Notice of Abandonment is hereby vacated, and the holding of abandonment withdrawn.

The application file will be forwarded to the Technology Center AU3651 for consideration of the RCE and IDS filed on March 8, 2004 (certificate of mailing date March 1, 2004).

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

Shirene Willis Brantley

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of	:
Whitten, et al.	: LETTER REGARDING PATENT
Application No. 10/173,795	: TERM ADJUSTMENT
Filed: June 18, 2002	:
Atty. Dkt. No: 13039:90 CIP	:

This is a decision on the "GOOD FAITH AND CANDOR LETTER REGARDING PATENT TERM ADJUSTMENT" filed December 8, 2006. The Office thanks applicants for their good faith and candor in bringing this to our attention.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application, mailed November 21, 2006, indicated that the PTA to date is 817 days. Applicants suggest that the adjustment of 817 days may be longer than appropriate, the Office having failed to reduce the term 57 days in connection with the supplemental reply filed June 12, 2003.

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

A review of the record reveals that an adjustment of 866 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(2).

The adjustment of 866 days is properly reduced 57 days, as indicated by applicants, in accordance with 37 CFR 1.704(c)(7) in connection with the reply submitted June 12, 2003. The reduction began April 17, 2003, the day after the date that the initial reply to the Office action mailed March 10, 2003 was filed, and ended June 12, 2003, the date that the omission was corrected.

As undisputed by applicants, the adjustment of 866 days is further reduced 40 days in accordance with 37 CFR 1.704(b) in connection with the reply to the non-final Office action filed November 6, 2003.

As undisputed by applicants, the adjustment of 866 days is further reduced nine days in accordance with 37 CFR 1.704(b) in connection with the submission of the RCE on March 8, 2004.

The adjustment of 866 days if further reduced 960 days in accordance with 37 CFR 1.704(c)(8) in connection with the IDS submitted October 24, 2006. The reduction began March 9, 2004, the day after the date that the initial reply was filed, and ended October 24, 2006, the date that the supplemental reply (IDS) was filed. The Office has reviewed the statement filed with the IDS and does not qualify for the waiver of reduction under 37 CFR 1.704(d) because applicants did not assert the 30-day submission requirement.

In view thereof, at the time of allowance, the application was entitled to zero days of patent term adjustment.

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

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

The application is being forwarded to Office of Patent Publications for issuance of a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery A Fries

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

Day : Thursday
Date: 8/30/2007

PALM INTRANET

Time: 10:30:28

PTA Calculations for Application: 10/173795			
Application Filing Date:	06/18/2002	PTO Delay (PTO):	866
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	49
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-1017		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
82	08/30/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		57	
81	08/30/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		960	
75	11/21/2006	MAIL NOTICE OF ALLOWANCE	866		65
74	11/20/2006	ISSUE REVISION COMPLETED			
73	11/20/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
72	11/20/2006	NOTICE OF ALLOWABILITY			
71	11/16/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
70	10/24/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
69	11/04/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
68	10/24/2006	REFERENCE CAPTURE ON IDS			
67	10/24/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
66	11/15/2006	DATE FORWARDED TO EXAMINER			
65	03/08/2004	REQUEST FOR CONTINUED EXAMINATION (RCE)		9	29
64	11/15/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
60	06/12/2006	WITHDRAW PUBLICATION/PRE-EXAM ABANDON			
59	06/12/2006	PETITION TO REVIVE APPLICATION - GRANTED			
58	03/08/2004	WORKFLOW - REQUEST FOR RCE - BEGIN			
57	10/24/2005	PETITION ENTERED			
56	11/04/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

55	09/19/2005	PETITION DECISION - DISMISSED			
54	09/24/2004	PETITION ENTERED			
53	09/24/2004	WORKFLOW INCOMING PETITION IFW			
52	08/09/2004	MAIL ABANDONMENT FOR FAILURE TO PAY ISSUE FEE			
51	08/09/2004	ABANDONMENT FOR FAILURE TO PAY ISSUE FEE			
50	06/18/2002	WORKFLOW - DRAWINGS FINISHED			
49	06/18/2002	WORKFLOW - DRAWINGS MATCHED WITH FILE AT CONTRACTOR			
48	07/22/2004	RECEIPT INTO PUBS			
47	07/20/2004	ISSUE REVISION COMPLETED			
46	07/09/2004	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
45	07/07/2004	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
44	04/30/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
43	03/08/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
42	06/22/2004	RECEIPT INTO PUBS			
41	06/18/2004	RECEIPT INTO PUBS			
40	04/21/2004	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
39	04/20/2004	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
38	01/23/2004	RECEIPT INTO PUBS			
37	01/02/2004	RECEIPT INTO PUBS			
36	01/02/2004	WORKFLOW - QUERY REQUEST - FINISH			
35	12/17/2003	RECEIPT INTO PUBS			
34	12/16/2003	WORKFLOW - QUERY REQUEST - BEGIN			
33	12/02/2003	WORKFLOW - FILE SENT TO CONTRACTOR			
32	12/02/2003	RECEIPT INTO PUBS			
31	11/30/2003	DISPATCH TO PUBLICATIONS			
30	11/30/2003	ISSUE REVISION COMPLETED			
29	11/28/2003	MAIL NOTICE OF ALLOWANCE			
28	11/26/2003	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
27	11/26/2003	CASE DOCKETED TO EXAMINER IN GAU			
26	11/26/2003	NOTICE OF ALLOWABILITY			

25	11/17/2003	DATE FORWARDED TO EXAMINER			
24	11/06/2003	RESPONSE AFTER NON-FINAL ACTION		40	19
23	11/06/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
22	11/17/2003	CORRESPONDENCE ADDRESS CHANGE			
21	11/17/2003	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
20	07/15/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	06/27/2003	MAIL NON-FINAL REJECTION			
18	06/25/2003	NON-FINAL REJECTION			
17	06/18/2003	DATE FORWARDED TO EXAMINER			
16	06/12/2003	RESPONSE AFTER NON-FINAL ACTION			
15	05/09/2003	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
14	05/08/2003	MISCELLANEOUS ACTION WITH SSP			
13	04/21/2003	DATE FORWARDED TO EXAMINER			
12	04/16/2003	RESPONSE TO ELECTION / RESTRICTION FILED			
11	03/10/2003	MAIL RESTRICTION REQUIREMENT			
10	03/07/2003	REQUIREMENT FOR RESTRICTION / ELECTION			
9	03/06/2003	CASE DOCKETED TO EXAMINER IN GAU			
8	09/30/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	09/18/2002	APPLICATION DISPATCHED FROM OIPE			
6	09/17/2002	APPLICATION IS NOW COMPLETE			
5	08/22/2002	ADDITIONAL APPLICATION FILING FEES			
4	08/22/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
3	07/11/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
2	07/03/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	06/18/2002	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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OIPE JC102
APR 2 7 2004
PATENT & TRADEMARK OFFICE

Smole 1711 Pet. Dec

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Jochen Kerres *et al.*

Application No.: 10/173,830 Group Art Unit: 1711

Filed: June 19, 2002 Examiner: Truong, Duc

For: COVALENTLY CROSS-LINKED POLYMERS AND POLYMER MEMBRANES VIA SULFINATE ALKYLATION

Attorney Docket No.: 061121-0010-US

Approved
JMStone
Jacqueline M. Stone, Director
Technology Center 1700
JUL - 6 2004

REQUEST UNDER 37 C.F.R. 10.40(c)
FOR WITHDRAWAL OF ATTORNEY

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

Sir:

It is hereby requested that the attorneys who have appeared in the above-identified patent application, and whose names appear below, be permitted to withdraw as attorneys in accordance with 37 C.F.R. §§ 1.36 and 10.40(c). It is respectfully requested that this Request be approved for the reasons stated herein.

As required, an original and two copies of this Request are being filed herewith.

The undersigned attorney has authorization and submits this Request on behalf of the following individuals:

Berj A. Terzian (Reg. No. 20060), David Weild, III (Reg. No. 21094), Barry D. Rein (Reg. No. 22411), Stanton T. Lawrence, III (Reg. No. 25736), Charles E. McKenney (Reg. No. 22795), Philip T. Shannon (Reg. No. 24278), Francis E. Morris (Reg. No. 24615), Charles E. Miller (Reg. No. 24576), Gidon D. Stem (Reg. No. 27469), John J. Lauter, Jr. (Reg. No. 27814), Brian M. Poissant (Reg. No. 28462), Brian D. Coggio (Reg. No. 27624), Rory J. Radding (Reg. No. 28749), Stephen J. Harbulak (Reg. No. 29166), Donald J. Goodell (Reg. No. 19766), James N. Palik (Reg. No. 25510), Thomas E. Friebel (Reg. No. 29258), Laura A. Coruzzi (Reg. No. 30742), Jennifer Gordon (Reg. No. 30753), Allan A. Fanucci (Reg. No. 30256), Geraldine F. Baldwin (Reg. No. 31232), Victor N. Balancia (Reg. No. 31231), Samuel B. Abrams (Reg. No. 30605), Steven I. Wallach (Reg. No. 35402), Marcia

H. Sundeen (Reg. No. 30893), Paul J. Zegger (Reg. No. 33821), Edmond R. Bannon (Reg. No. 32110), Bruce J. Barker (Reg. No. 33291), Adriane M. Antler (Reg. No. 32605), Thomas G. Rowan (Reg. No. 34419), James G. Markey (Reg. No. 31636), Thomas D. Kohler (Reg. No. 32797), Scott D. Stimpson (Reg. No. 33607), Gary S. Williams (Reg. No. 31066), William S. Galliani (Reg. No. 33885), Ann L. Gisolfi (Reg. No. 31956), Todd A. Wagner (Reg. No. 35399), Scott B. Familant (Reg. No. 35514), Kelly D. Talcott (Reg. No. 39582), Francis D. Cerrito (Reg. No. 38100), Anthony M. Insogna (Reg. No. 35203), Brian M. Rothery (Reg. No. 35340), Brian D. Siff (Reg. No. 35679), Alan Tenenbaum (Reg. No. 34939), Michael J. Lyons (Reg. No. 37,386), Garland T. Stephens (Reg. No. 37,242) and William J. Sipio (Reg. No. 34,514), all of Pennie & Edmonds LLP, whose addresses are 11 Avenue of the Americas, New York, NY 10036, 1667 K Street, N.W., Washington, D.C. 20006 and 3300 Hillview Avenue, Palo Alto, CA. 94304.

The present mailing address of each of the above-named individuals is:

Pennie & Edmonds LLP
1667 K Street, N.W.
Washington, D.C. 20006
(202) 496-4400

Please change the correspondence address for this application and direct all future correspondence to:

Thomas Häring
c/o Universität Stuttgart
Institut für Chemische Verfahrenstechnik
Böblingerstrasse 72
71099 Stuttgart
Germany

REMARKS

The Commissioner usually requires that there be "at least thirty 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 C.F.R. § 1.136(a)." M.P.E.P. § 402.06. In the present application, an office action was mailed January 21, 2004.

On February 20, 2004, we were informed by our foreign associate, Henkel, Feiler & Hänzel ("Henkel"), that they have relinquished representation of this application with immediate effect. On February 23, 2004, we wrote a letter to Dr. Schön asking to

provide us with an up to date address for Mr. Häring. We received a reply from Henkel providing us with a current address. On March 24, 2004, we wrote a letter to Mr. Häring asking him to provide us with a billing address for future work to be done for him. On February 25, 2004, we received an e-mail from Mr. Nähring asking us to provide him with a fee schedule of Morgan, Lewis & Bockius, which we sent to him by e-mail on February 25, 2004 and a follow-up e-mail on March 16, 2004. On April 1, 2004, once again we have written to Mr. Häring asking him to provide us with a decision who is responsible for these files.

In view of the foregoing, the attorneys requesting withdrawal respectfully request approval of the present petition to withdraw at once.

The undersigned and the attorneys named herein are seeking permissive withdrawal under 37 C.F.R. § 10.40(c), for failure to provide us with information needed to continue representing Mr. Häring.

No fees is believed to be due in connection with filing of the instant request.

However, if a fee is due, please charge the required fee to Morgan, Lewis & Bockius, LLP Deposit Account No. 50-0310.

Respectfully submitted,

Date: April 27, 2004

Victor N. Balancia (Reg. No. 31,231)
Morgan, Lewis & Bockius LLP
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Tel (202) 739-3000

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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OFFICE OF PETITIONS

MACPHERSON KWOK CHEN & HEID LLP
1762 TECHNOLOGY DRIVE, SUITE 226
SAN JOSE, CA 95110

In re Application of
Jochen Kerres, et al.
Application No. 10/173,830
Filed: June 19, 2002
Attorney Docket No. M-15606-IP US

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed March 24, 2005.

The petition is GRANTED.

The application became abandoned for failure to pay the issue fee on or before November 30, 2004. A Notice of Abandonment was mailed on January 31, 2005. Receipt is acknowledged of the issue fee on March 24, 2005.

This application is being referred to Publishing Division for further processing.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (703) 305-8283.

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

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. _____

STEPHEN R. GREINER, ESQUIRE
GREINER LAW OFFICES PC
6701 DEMOCRACY BLVD., SUITE 110
BETHESDA, MD 20817

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APR 0 2 2004
OFFICE OF PETITIONS

In re Application of :
Berton L. VICARS :
Application No. 10/173,837 :DECISION ON PETITION
Filed: June 19, 2002 :
Attorney Docket No. 3552.02 :

This is a decision on the petition titled "Petition to Withdraw Application from Issuance Pursuant to 37 CFR 1.313(a), filed March 22, 2004.

The petition is **DISMISSED**.

A Notice of Allowability and a Notice of Allowance and Fee(s) Due requiring the submission of corrected formal drawings and payment of the issue and publication fees were mailed on February 2, 2004, with the corrected drawings and issue and publication fees being due on or before May 3, 2004. The issue and publication fees were timely paid on March 1, 2004, but corrected formal drawings have not yet been received. As noted by petitioner, corrected formal drawings as required by the Notice of February 2, 2004 are due on or before May 3, 2004 to avoid the abandonment of the application.

Petitioner requests withdrawal from issue under 37 CFR 1.313(a) on the grounds that the drawing change submitted to the Examiner on December 19, 2003 was incorrect in that the "drawing change did not show the proper place of intersection of bores 20 and bores 14 in Figure 5." Upon withdrawal of the application from issue, petitioner indicates that the proposed changes to the drawings by way of an amendment under 37 CFR 1.312 will be submitted.

37 CFR 1.313(a) states, in-part:

> Applications may be withdrawn from issue for further action at the initiative of the Office or upon petition by the applicant. To

> request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary.

37 CFR 1.313(a) applies to those applications where the issue fee has not yet been paid. Therefore, 37 CFR 1.313(a) is immaterial to this application since, as noted above, the issue fee in reply to the Notice of Allowance and Fee(s) Due mailed February 2, 2004 was timely paid on March 1, 2004. Where an applicant seeks to amend the application after payment of the issue fee, the appropriate avenue of relief would be by way of a petition under 37 CFR 1.313(c), which states:

> Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:
>
> (1) Unpatentability of one of more claims, which petition must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;
> (2) Consideration of a request for continued examination pursuant to § 1.114; or
> (3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

Therefore, this application can only be withdrawn from issue at the request of the applicant after compliance with one of the provisions set forth in 37 CFR 1.313(c)(1)-(3).

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: 2011 South Clark Place
Crystal Plaza Two, Lobby
Room 1B03
Arlington, VA 22202

By FAX: (703) 872-6906
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (703)305-8680.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. 13

STEPHEN R. GREINER, ESQUIRE
GREINER LAW OFFICES PC
6701 DEMOCRACY BLVD., SUITE 110
BETHESDA, MD 20817

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APR 0 8 2004

OFFICE OF PETITIONS

In re Application of :
Berton L. Vicars :
Application No. 10/173,837 : NOTICE
Filed: June 19, 2002 :
Attorney Docket No. 3552.02 :

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) 305-9282.

This application file will be retained in the Office of Petitions for one month pending a response to the decision mailed April 2, 2004. Failure to response will result in the return of this application to the Publishing Division to be processed into a patent.

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

cc: BARNES & THORNBURG
P.O. BOX 2786
CHICAGO, IL 60690-2786

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No. 18

JAMES B. CONTE
BARNES & THORNBURG
P.O. BOX 2786
CHICAGO, IL 60606-2786

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MAY 1 1 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Berton L. Vicars :
Application No. 10/173,837 :
Filed: June 19, 2002 :
Attorney Docket No. 3552.02 :

This is a decision on the petition under 37 CFR 1.313(c), filed May 6, 2004,[1] which is being treated under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 22, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[2]

Telephone inquiries should be directed to Wan Laymon at (703) 306-5685.

Upon receipt of the file in the Office of Petitons, the file will be forwarded to Technology Center AU 3746 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Amendment.

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

---

[1] The petition originally filed on April 13, 2004 has not to date been associated with the instant application file.

[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).

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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DIW 10-02

Paper No. 6

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

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OCT 24 2002

OFFICE OF PETITIONS

In re Application of	:
Thomsen et al.	:
Application No. 10/173,841	: DECISION GRANTING PETITION
Filed: 19 June, 2002	:
Attorney's Docket No. 2815-0196P	:

This is a decision on the petition styled under 37 CFR 1.181 and filed on 16 September, 2002, which is treated as a petition under 37 CFR 1.53(e) to accord the above-identified application a filing date of 19 June, 2002.

The petition is **granted**.

On 19 June, 2002, the application was filed. On 22 July, 2002, however, Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application" stating that, *inter alia*, the application had not been accorded a filing date because the application had been deposited without drawings. A two (2)-month period for reply was set.

In response, on 16 September, 2002, the present petition was filed. Petitioners request that the application be accorded a filing date of 19 June, 2002.

It has been PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).[1] A review of the record reveals that Claims 58-66 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.

[1] MPEP 601.01(f).

Accordingly, the application, as filed, is entitled to a filing date.

The petition is granted. The petition fee of $130.00 will be credited to counsel's deposit account, No. 02-2448.

The "Notice of Incomplete Nonprovisional Application" mailed on 22 July, 2002, is hereby vacated to the extent that it stated that the application had been deposited without drawings.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 19 June, 2002.

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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United States Patent and Trademark Office
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ARNOLD S. WEINTRAUB
THE WEINTRAUB GROUP, PLC
32000 NORTHWESTERN HIGHWAY, SUITE 240
FARMINGTON HILLS MI 48334

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OFFICE OF PETITIONS

In re Application of	:	
Broadway, Johnnie B. III	:	
Application No. 10/173,937	:	ON PETITION
Filed: June 18, 2002	:	
Attorney Docket No. BJH-100-A	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 11, 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 Center 3600 for further examination on the merits.

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

Liana Chase
Petitions Examiner
Office of Petitions

Cc: JOHNNIE BROADWAY
12093 DEQUINDRE ST., #91
HAMTRAMCK, MI 48212

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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MAR 3 1 2008

In re Application of

HAMID, Laurence
Application No. 10/173,942
Filed: June 19, 2002
Attorney Docket No. **IVPH-0081**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 10, 2007.

The request is **APPROVED**.

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

The request was signed by Michael P. Dunnam on behalf of all attorneys of record who are associated with customer No. 23377. 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.

There is an outstanding Office action mailed November 28, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **LAURENCE HAMID**
561 BROOKRIDGE CRESCENT
OTTAWA, ONTARIO
K4A 1Z3 CANADA

cc: **PERKINS COIE**
1201 THIRD AVENUE
SUITE 4800
SEATTLE, WASHINGTON 98101

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Paper No. 4

SHAFFER & CULBERTSON, LLP
CAPITAL OF TEXAS HWY., S,
BLDG ONE, STE 360
AUSTIN TX 78746

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SEP 1 1 2002
OFFICE OF PETITIONS

In re Application of	:	
Eldon Roth	:	
Application No. 10/173,955	:	DECISION GRANTING PETITION
Filed: 18 June, 2002	:	
Atty's Docket No. 125-317	:	

This is a decision on the petition filed on 23 August, 2002, requesting that the above-identified application, including one (1) sheet of drawings containing Figure 4, be accorded a filing date of 18 June, 2002.

On 18 June, 2002, the application was filed.

On 24 July, 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 18 June, 2002, but that Figure(s) 4 described in the specification appeared to have been omitted.

In response, on 23 August, 2002, one (1) sheet of drawings containing Figure 4 and the present petition were submitted. Petitioners assert that Figure 4 was filed with the other application papers on 18 June, 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 18 June, 2002, with the above-identified application number, and identifies the application by attorney docket number, sole inventor's name, and invention title, and acknowledges receipt, *inter alia*, of drawings 6 pages. Petitioner requests that the application, including the one (1) sheet of drawings containing Figure 4, be accorded a filing date of 18 June, 2002.

A review of the record reveals that five (5) sheets of drawings, containing Figures 1-3 and 5-8 are located among the application papers deposited on 18 June, 2002. However, the evidence is convincing that the application papers deposited on 18 June, 2002, included six (6) sheets of drawings and that the sheet of drawings containing Figure 4 was subsequently misplaced in the Office. Therefore, the application, including the one (1) sheet of drawing containing Figure 4 as described in the specification, is entitled to a filing date of 18 June, 2002.

The "Notice" mailed on 24 July, 2002, is vacated.

It is noted that the number of sheets of drawings itemized on petitioners' postcard receipt was hand-corrected to 6 pages. The Office is construing this correction as having been made **before** the application papers and postcard were deposited with the USPTO on 18 June, 2002. Petitioners **must** inform the Office if this is not a correct interpretation.

In view of the above, the petition is granted. The $130.00 petition fee paid on 23 August, 2002, will be refunded to counsel's deposit account, No. 19-1453.

The application will be processed using the application papers filed on 18 June, 2002, and the copy of Figure 4 of the drawings supplied on 23 August, 2002.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 18 June, 2002, using the application papers filed on 18 June, 2002, and the one (1) sheet of drawing containing Figure 4, supplied on 23 August, 2002, and for an indication on the bib-data sheet that six (6) sheets of drawings were present on filing.

Telephone inquires should be directed to the undersigned at 703 308-6918.

D Wood

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

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

REQUEST FOR PATENT FEE REFUND

1 Date of Request: _____ 2 Serial/Patent # _____

3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
122	Petition	3	8/23/02	$ 130
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 130

8 TO BE REFUNDED BY:

- [ ] Treasury Check
- [x] Credit Deposit A/C #:

9 1 9 -- 1 4 5 3

10 REASON:

- [ ] Overpayment
- [ ] Duplicate Payment
- [x] No Fee Due (Explanation):

PET DUE TO PTO ERROR

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: D WOOD TITLE: PET ATTY

SIGNATURE: [signature] PHONE: 308 6918

OFFICE: PETITIONS

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THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: Alicia Kelly DATE: 9/11/02

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. 20

TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY, UT 84110

COPY MAILED

NOV 24 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
James M. Wark :
Application No. 10/173,957 :
Filed: June 17, 2002 :
Attorney Docket No. 3392.6US (97-432.6) :

This is a decision on the petition, filed November 18, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 19, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2829 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Amendment and 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).

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)
6915048	2005-07-05	10173972	2002-06-17	712-002.086-1

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	/William J. BARBER/	Date (YYYY-MM-DD)	2009-09-18
Name	William J. Barber	Registration Number	32720

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6915048
Issue Date: July 5,2005
Application No. 10173972
Filed: June 17,2002
Attorney Docket No. 712-2.86-1

:

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

:

This is a decision on the electronic petition, filed September 18,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 18,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Paper No. 4

MATTHEW E. CONNORS
SAMUELS, GAUTHIER & STEVENS
225 FRANKLIN STREET, SUITE 3300
BOSTON, MA 02110

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AUG 2 2 2002

OFFICE OF PETITIONS

In re Application of :
Minjoo L. Lee :
Application No. 10/173,986 :
Filed: June 18, 2002 :
Attorney Docket No. MIT9373 :

NOTICE

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

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

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

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

This file is being forwarded to the Initial Patent Examination Unit.

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

Transaction List

Search by

- Accounting Date: (MMDDYY) Operator ID:
- Name/Number: 10173986
- Attrny Docket No:
- Deposit Account No.:

Accounting Date Starts: Ends:

Find...

Accounting Date	Operator ID	Seq. No.	Txn Src	Fee Code	St	Amount	Name/Number	Dep Acct
06/24/2002	HDEMESS1	72	SALE	203 22	A	198.00	10173986	
06/24/2002	HDEMESS1	71	SALE	202	A	42.00	10173986	
06/24/2002	HDEMESS1	70	SALE	201	A	370.00	10173986	
06/24/2002	WABDELR1	139	SALE	122	V	130.00	10173986	500281
06/24/2002	WABDELR1	138	SALE	103	V	18.00	10173986	500281
06/24/2002	WABDELR1	137	SALE	101	V	740.00	10173986	500281

OK | Adjustment Detail | Authorization Detail | Print Screen

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Adjustment date: 07/15/2002  CNGUYEN
06/24/2002 HDEMESS1 00000032 10173986
01 FC:201                        -370.00 OP
02 FC:202                         -42.00 OP
03 FC:203                        -198.00 OP
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WITHROW & TERRANOVA, P.L.L.C.
P.O. BOX 1287
CARY, NC 27512

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FEB 23 2005

OFFICE OF PETITIONS

In re Application of :
Ray J. Hutchinson :
Application No. 10/173,990 : ON PETITION
Filed: June 18, 2002 :
Attorney Docket No. 2500-001 :

This is a decision on the petition, filed February 18, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 28, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 3754 for further processing of the request for continued examination under 37 CFR 1.114.

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

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

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FEB 22 2006

OFFICE OF PETITIONS

VICTOR BRONSHTEIN
5008 ALMONDWOOD WAY
SAN DIEGO, CA 92130

In re Application of Bronshtein :
Application No. 10/174,007 : Decision on Petition
Filing Date: June 18, 2002 :
Attorney Docket No. 2566-021098 :

This is a decision on the petition under 37 CFR 1.137(a), filed November 22, 2005, to revive the above-identified application. The petition will also be treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

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

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

The above-identified application was deemed abandoned for failure to reply in a timely manner to the non-final Office action mailed January 10, 2005, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application was deemed abandoned as of April 11, 2005. A Notice of Abandonment was mailed on September 29, 2005.

The merits of the petition under 37 CFR 1.137(a) will not be considered since the $250 petition fee has not been paid. However, the record appears to indicate petitioner wishes for the Office to treat the petition as a petition to withdraw the holding of abandonment requiring no fee.

In the absence of any irregularity in the mailing of the Office action, there is a strong presumption that the Office action was properly mailed and delivered to the address of record. In order to overcome this presumption, a petition must establish the chance the Notice was lost after receipt at the address of record is less than the chance the Notice was lost prior to being delivered to the address of record.

Petitioner should discuss how mail from the Office is handled upon receipt. Who brings mail in from the mailbox? Who sorts the mail? If the Notice had been received, what steps would have been taken? Would the Notice have been placed in a specific location such as a file being kept for the application? If yes, has petitioner searched the file to ensure the Notice is not present?

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover

letter entitled "Renewed Petition under 37 CFR 1.181." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

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

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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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VICTOR BRONSHTEIN
5008 ALMONDWOOD WAY
SAN DIEGO, CA 92130

COPY MAILED

MAY 16 2006

OFFICE OF PETITIONS

In re Application of Bronshtein :
Application No. 10/174,007 : Decision on Petition
Filing Date: June 18, 2002 :
Attorney Docket No. 2566-021098 :

This is a decision on the renewed petition filed March 3, 2006, under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition is **dismissed**.

The above-identified application was deemed abandoned for failure to reply in a timely manner to the non-final Office action mailed January 10, 2005, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application was deemed abandoned as of April 11, 2005. A Notice of Abandonment was mailed on September 29, 2005.

A petition was filed on November 22, 2005.

A decision dismissing the petition was mailed on February 22, 2006. The decision stated in part,

> Petitioner should discuss how mail from the Office is handled upon receipt. Who brings mail in from the mailbox? Who sorts the mail? If the Notice had been received, what steps would have been taken? Would the Notice have been placed in a specific location such as a file being kept for the application? If yes, has petitioner searched the file to ensure the Notice is not present?

Although the instant petition addresses the first two questions listed above, it fails to answer the third, fourth, and fifth question. Any request for reconsideration should fully answer the following questions:

(1) If the Notice had been received, what steps would have been taken on the date of receipt?

(2) If the Notice had been received, would it have been placed in a specific location such as in a file kept specifically for the instant application?

(3) If the Notice would have been placed in a specific location, has a search been performed of that location to ensure the Notice is not present?

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. *No further petition fee is required for the request.* Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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VICTOR BRONSHTEIN
5008 ALMONDWOOD WAY
SAN DIEGO, CA 92130

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AUG 0 2 2006

OFFICE OF PETITIONS

In re Application of Bronshtein :
Application No. 10/174,007 : Decision on Petition
Filing Date: June 18, 2002 :
Attorney Docket No. 2566-021098 :

This is a decision on the renewed petition filed March 3, 2006, under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition is **granted.**

The above-identified application was deemed abandoned for failure to reply in a timely manner to the non-final Office action mailed January 10, 2005, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application was deemed abandoned as of April 11, 2005. A Notice of Abandonment was mailed on September 29, 2005.

Petitioner contends, and has established, the non-final Office action was never received.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Technology Center Art Unit 1651 will be informed of the instant decision. Thereafter, the Technology Center's technical support staff will re-mail the non-final Office action. The time period for responding to the new non-final Office action will be set to run from the mailing date of the new non-final Office action.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

OIPE JC24
AUG 0 5 2004
PATENT & TRADEMARK OFFICE

IFW

In the United States Patent and Trademark Office

10/27/04
Approved
JMStone
Jacqueline M. Stone, Director
Technology Center 1700

Serial Number: 10 / 626,892
Appn. Filed: 7/24/2003
Applicant(s): Graham, Craig et al.
Appn. Title: Foam Bun Mold Shim
Examiner/GAU: N/A / 1732

Request to Withdraw as Attorney/Agent of Record

August 3, 2004

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

Dear Sir or Madam:

I hereby apply to withdraw as attorney/agent of record in connection with the above-identified application.

The reason for this request is that I have learned that YKK, the assignee of this application, recently received U.S. Patent # 6,684,466 (Nishida) for a child-resistant buckle. Serious questions of patentability and inventorship exist with respect to this patent, because YKK did not inform the Patent Office of the existence of my underlying U.S. Patent # 5,991,985, which it had licensed, and because prototypes I supplied to YKK as early as August 1999 show all the features in many claims of the YKK patent.

The YKK patent may become the subject of re-examination proceedings or litigation, thus creating a conflict of interest for me. The license referred to was executed before I became a patent agent, and is no longer in effect. Moreover, this application is in no way related to the YKK patent or my underlying patent. The situation would personally not affect my prosecution of this application. However, I believe it is important to avoid even the appearance of a conflict of interest, and thus I am requesting withdrawl.

I have duly notified YKK of my intention to withdraw, so that they may timely seek new representation.

Respectfully submitted,

John A. Galbreath
Registered Practitioner #46,718
2516 Chestnut Woods Court
Reisterstown, MD 21136
Tel. (410) 666-7274

Certificate of Mailing: I certify that on the date below, this document and referenced attachments, if any, was sent via first-class U.S. mail to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

3 August 2004

John A. Galbreath

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mail Date
7-19-05

BURTON A. AMERICK
CONNOLLY, BOVE, LODGE & HUTZ, LLPL
1990 M STREET, NW
SUITE 800
WASHINGTON, DC 20036-3425

In re Application of	:
Kenneth Drasner et al.	:
Serial No.: 10/174,055	: PETITION DECISION
Filed: June 17, 2002	:
Attorney Docket No.: 22116-00012	:

This is in response to the petition under 37 CFR 1.181, filed September 10, 2004, for withdrawal of abandonment of the above identified application based on failure to receive an Office action. The delay in acting on this petition is regretted.

A review of the file history shows that a first examiner mailed a restriction requirement to applicant on August 20, 2002, setting a one month shortened statutory period for reply. Applicant replied on February 19, 2003, subsequent to which the application was transferred to a new examiner. On April 22, 2003, the second examiner called applicant's attorney to obtain a further restriction requirement as noted in an interview summary. As a result of this interview the examiner believed that applicant wished to abandon the application and mailed a Notice of Express Abandonment to applicant on May 6, 2003. Applicant filed a withdrawal of Power of Attorney on May 7, 2003, which was accepted on July 17, 2003. Further, as a result of the interview summary and the Notice of Abandonment applicant's previous attorney mailed to the Office on May 28, 2003, a disclaimer of any request for or authorization of express abandonment of the application. A new Power of Attorney was filed on September 10, 2004, and will be entered in due course.

Express Abandonment of an application can take place only upon **written** request for such abandonment. Applicant filed no such written request. The examiner's abandonment of this application was, therefor, in error and the Notice of Abandonment is withdrawn and the application restored to pending status with the mailing of this decision.

The petition is **GRANTED**.

The application will be forwarded to a new examiner for further prosecution (the previous examiner has retired).

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 571-273-8300.

for Bruce Kisliuk
Director, Technology Center 1600

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Larry Mason Lee
4408 Spicewood Springs Rd.
Austin TX 78759

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OFFICE OF PETITIONS

In re Application of	:	
Alvin JONES	:	
Application No. 10/174,079	:	ON PETITION
Filed: June 18, 2002	:	
Attorney Docket No. 2-0602	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 14, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 17, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 18, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $685; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of December 17, 2003 is accepted as having been unintentionally delayed.

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

The application file is being referred to Technology Center AU 3727 for appropriate action on the concurrently filed amendment.

Brian Hearn
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JUL 29 2005

TECHNOLOGY CENTER 3600

Chuck Veenstra, Esq.
Delphi Technologies, Inc.
Legal Staff, Mail Code : 480-414-420
P.O. Box 5052
Troy, MI 48007-5052

In re Application of:
Dean M. Bayer
Application No.10/174,081
Filed: June 18, 2002
Attorney Docket No. DP-306328

NOTICE OF WITHDRAWAL
FROM ISSUE
UNDER 37 CFR § 1.313(b)

The above-identified application is withdrawn from issue due to the filing of an RCE requesting consideration of an IDS. 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 ExaminerTeri Luu, at (571)-272-7045.

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

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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CHUCK VEENSTRA, ESQ.
DELPHI TECHNOLOGIES, INC.
LEGAL STAFF, MAIL CODE: 480-414-420
P O BOX 5052
TROY, MI 48007-5052

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AUG 0 9 2005

OFFICE OF PETITIONS

In re Application of	:
Dean M. Bayer	:
Application No. 10/174,081	: DECISION GRANTING PETITION
Filed: June 18, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. DP-306328	:

This is a decision on the petition, filed July 13, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.[1]

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 5, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[2]

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

This matter is being referred to Technology Center AU 3644 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

[1] On July 29, 2005, Technology Center 3600 mailed a "Notice of Withdrawal from Issue under 37 CFR § 1.313(b)," in view of the filing of a request for continued examination (RCE). However, petitions under 37 CFR 1.313(c)(2) are delegated to the Office of Petitions. Accordingly, the Notice mailed on July 29, 2005 is vacated.

[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).*

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LERNER GREENBERG STEMER, LLP
P.O. BOX 2480
HOLLYWOOD, FL 33022-2480

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JAN 12 2006

OFFICE OF PETITIONS

In re Application of	:	
Michael Rosenbauer, et. al.	:	
Application No. 10/174,087	:	ON PETITION
Filed: June 17, 2002	:	
Attorney Docket No. ZTP99P13039	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on October 28, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $790 for a Request for Continued Examination (RCE) under 37 CFR 1.114; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. In the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this application. However, in accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. If petitioner desires to receive correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence will be directed solely to the address of record until otherwise instructed.

This application is being revived for consideration of the RCE.

The application file is being referred to Technology Center Art Unit 3637.

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Russell W. Warnock
100 Bosch Boulevard
New Bern, NC 28562

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Donald W. Meeker
Patent Agent
924 East Ocean Front, #E
Newport Beach, CA 92661

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Jeffrey P. Sabol :
Application No. 10/174,090 :
Filed: June 18, 2002 :
Attorney Docket No. SABOL3 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 25, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Restriction mailed November 7, 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 after midnight December 7, 2003.

In response, petitioner submitted with the instant petition $665 for the petition to revive fee, and an Election.

The petition is **GRANTED**.

The application file is being forwarded to Technology Center Art Unit 3618, for review of the Election filed with the instant petition.

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

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

- UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-145

MAY 16 2005

DONALD W. MEEKER
Patent Agent
924 East Ocean Front, # E
Newport Beach, CA 92661

In re application of
Jeffrey P. Sabol :
Application No. 10/174,090 : **DECISION ON REQUEST**
Filed: June 18, 2002 : **FOR WITHDRAWAL OF**
For: ADJUSTABLE ROTATABLE SNOWBOARD : **ATTORNEY**
BOOT BINDING

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

The request is **NOT APPROVED**.

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 B) above.

As to condition B), the reason given, that "Due to my heavy workload, I am unable to meet the client's time demands", is not acceptable. It is not clear that the statement satisfies one of the valid reasons for withdrawal under 37 CFR 10.40 (b)(1)-(4) or (c)(1)-(6).

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6611

SNM/pav: 05/09/05

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)
6,811,703	2004-11-02	10/174,102	2002-06-18	

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	/JSRichards/	Date (YYYY-MM-DD)	2009-03-13
Name	Joanne S. Richards	Registration Number	45042

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

In re Patent No. 6811703
Issue Date: November 2,2004
Application No. 10174102
Filed: June 18,2002
Attorney Docket No. 103245.111595

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

This is a decision on the electronic petition, filed March 13,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 13,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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COMMISSIONER FOR PATENTS
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Paper No. 5

SAWYER LAW GROUP LLP
P O BOX 51418
PALO ALTO, CA 94303

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DEC 2 9 2003

OFFICE OF PETITIONS

In re Application of :
Samy V. Karuppana, et al. :
Application No. 10/174,110 :
Filed: June 18, 2002 :
Attorney Docket No. 1464CIP :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 24, 2003, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers mailed July 22, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 23, 2002.

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

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future

correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

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

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

Retta Williams

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

cc: Judson K. Champlin
Westman, Champlin & Kelly
900 Second Avenue South, Suite 1600
Minneapolis, MN 55402

UNITED STATES PATENT AND TRADEMARK OFFICE

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PATENT DEPARTMENT
SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
FOUR TIMES SQUARE
NEW YORK NY 10036

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OFFICE OF PETITIONS

In re Application of	:	
Pethick et al.	:	
Application No. 10/174,138	:	DECISION GRANTING PETITION
Filed: June 18, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. EKT-001	:	

This is a decision on the petition, filed January 31, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on August 7, 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 Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of May 19, 2005 accompanies this decision on petition.

This matter is being referred to Technology Center Art Unit 3624 for examination in due course.

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

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 27 2007

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction for Appl. No. 10/174159patent 7074817

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: The change to Column 10 should not be made since lines 1-56 are indicated instead of lines 32-41.

The change to Column 19, line 31 should not be made because "trifluoro" is still misspelled in the correction.

JOSEPH K. McKANE
SPE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

1626 5/29/07
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/174,174	06/18/2002	Wolfgang Sievert	H26768	5516

7590 07/08/2003

Synnestvedt & Lechner LLP
2600 Aramark Tower
1101 Market Street
Philadelphia, PA 19107-2950

EXAMINER
ALANKO, ANITA KAREN

ART UNIT	PAPER NUMBER
1765	6

DATE MAILED: 07/08/2003

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

VOID

UR

PAPER NO. 6

JUN 25 2003

In re Application of
Wolfgang Sievert et al. :
Serial No:10/174,174 : PETITION UNDER
Filed: June 18, 2002 : M.P.E.P. 708.02, IV
For: ACID ETCHING MIXTURE HAVING REDUCED :
WATER CONTENT :

This is in response to the petition filed march 11, 2003, requesting that the above-identified application be granted Special Status under Section 708.02, IV of the MPEP and 37 CFR 1.102(c).

The petition has been considered and found to comply with the requirements set forth under the above-noted section. Accordingly, the petition is granted.

The petition is **GRANTED.**

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Synnestvedt & Lechner LLP
1101 Market Street
2600 Aramark Tower
Philadelphia, PA 19107-2950

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Merchant & Gould, PC
P.O. Box 2903
Minneapolis, MN 55402-0903

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APR 13 2007

OFFICE OF PETITIONS

In re Application of	:	
Roberto Moretti	:	
Application No. 10/174,196	:	DECISION ON PETITION
Filed: June 17, 2002	:	TO WITHDRAW
Attorney Docket No. 7587.192US01	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 22, 2007.

The request is **APPROVED**.

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

The request was signed by Sarah M. Monfeldt, former attorney with the firm of Merchant & Gould, PC.

Sarah M. Monfeldt has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

Applicant is advised that an Advisory Action was mailed November 6, 2006 which stated that the reply to the final rejection of October 24, 2006 did not prima facie place the application in condition for allowance and that a Brief in compliance with 37 CFR 41.37 must be filed within two months of the October 24, 2006 date of filing of the notice of appeal, or any extension thereof to avoid dismissal of the appeal.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Frances Hicks
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 8/3/2005

DATE : 6/9/2005

TO SPE OF : ART UNIT 3600(3641)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,792,711

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-922
Palm location **7580** - Tel. No. 305-8309

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

*** okay to enter drawing changes?**

Ernest C. White, LIE305-8339
Certificates of Correction Branch

Thank You For Your Assistance

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

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

Comments:

The amendments to claims 4 and 7 are approved.

With regard to the drawings, sheets 1-9 cannot replace sheets 1-10 of U.S. patent because no Fig. 8 has been provided. However, sheets 1-7 are substituted by pages 1-7 and sheets 9-10 of the U.S. patent are substituted by pages 8-9 of the certificate of correction.

[signature] for 3641

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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CHRISTOPHER J. KULISH
HOLLAND & HART LLP
P.O. BOX 8749
DENVER CO 80201-8749

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JAN 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Michael R. Neal	:	
Application No. 10/174,241	:	DECISION GRANTING PETITION
Filed: June 17, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 003919.P104	:	

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

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection of December 13, 2005, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 2168.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AVAYA INC.
MARGARET CARMICHAEL, DOCKETING SPECIALIST
1300 W. 120TH AVENUE
ROOM B1-F53
WESTMINSTER, CO 80234

Mail Date: 04/21/2010

Applicant	: Susan K. Harkreader	: DECISION ON REQUEST FOR
Patent Number	: 7620169	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/174,278	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/17/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1042** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

OIPE JC180
APR 14 2003
PATENT & TRADEMARK OFFICE

10174327 .041403

Attorney's Docket No. 33257/240040 PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re:	Larry L. Blumer, Jr. et al.	Confirmation No.: 6460
Appl No.:	10/174,327	
Filed:	June 18, 2002	
For:	KEYBOARD CONTROLLED AND ACTIVATED POINTNG DEVICE FOR USE WITH A WINDOWING SYSTEM DISPLAY	

BOX PGPUB DRAWINGS
Commissioner for Patents
Washington, DC 20231

SUBMISSION, PETITION, and FEE FOR ENTERING REPLACEMENT DRAWINGS FOR PUBLICATION OF THE PATENT APPLICATION
37 CFR § 1.215(c), 37 CFR § 1.182 and 1.17(h)

Applicant submits herewith four (4) sheets of drawings (Figs. 1 – 5) for the above-referenced patent application. Applicant hereby petitions that these drawings be used in the publication of the patent application as a replacement of the drawings filed with the original application.

These drawings are being filed within one month of the filing date of the application or within 14 months from the earliest filing date for which benefit is sought under title 35 USC. The petition fee of $130.00 under 37 CFR § 1.17(h) is enclosed.

Respectfully submitted,

James C. Edwards
Registration No. 44,667

Customer No. 00826
ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000
Tel Charlotte Office (704) 444-1000
Fax Charlotte Office (704) 444-1111

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:
BOX PGPUB DRAWINGS, Commissioner for Patents, Washington, DC 20231, on April 9, 2003.

Sarah B. Simmons
CLT01/4586059v1

04/14/2003 LWONDIM1 00000066 10174327
01 FC:8029 130.00 OP

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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DW 02-04

Paper No. 18

IVOR R. ELRIFI, PH.D., ESQ.
MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON MA 02111

COPY MAILED
FEB 20 2004
OFFICE OF PETITIONS

In re Application of Vernet, Fernandes, Gerlach, Malyankar, Boldog, Zerhusan, Spytek, Majumder, Tchernev, Padiguru, Patturajan, Burgess, Cangolli, Smithson, Rastelli, MacDougall, Taupier, Grosse, Szekeres, Alsobrook, Anderson, Guo, Li, Zhong Application No. 10/174,333 Filed: 18 June, 2002 Attorney Docket No. 15966-783 CIP1 (Cura-283	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the twice renewed petition under 37 CFR 1.47(a)[1] filed on 9 February, 2004.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventors 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 established that a copy of the application was sent to the non-signing inventor, Kumud Majumder. However, the non-signing inventor returned a letter refusing to sign without payment the declaration naming him as a joint inventor along with Corine A.M. Vernet, Elma R. Fernandes, Valerie Gerlach, Uriel M. Malyankar, Ference L. Boldog, Bryan D. Zerhausen, Kimberly A.

---

[1]A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

Spytek, Velizar T. Tchernev, Muralidhara Padigaru, Meera Patturajan, Catherine E. Burgess, Esha A. Gangolli, Glennda Smithson, Luca Rastelli, Jon R. MacDougall, Raymond J. Taupier, William M. Grosse, Edward S. Szekeres, John P. Alsobrook, David W. Anderson, Xxiojia (Sasha) Guo, Li Li, and Mei Zhong.

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.

After this decision is mailed, the application will be forwarded to Technology Center 1600 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov
dw 02-04

Kumud Majumder, Ph.D.
2398 High Ridge Road
Stamford CT 06903Portland, OR 97219

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FEB 2 0 2004

OFFICE OF PETITIONS

In re Application of
Vernet et al.
Application No. 10/174,333
Filed: 18 June, 2002
For: NOVEL PROTEINS AND NUCLEIC ACIDS ENCODING SAME

Dear Dr. Majumder:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at 703/308-6918. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

IVOR R. ELRIFI, PH.D., ESQ.
MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON MA 02111

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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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

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SEP 29 2008

OFFICE OF PETITIONS

In re Application of	:	
Roger E. Susi	:	
Application No. 10/174,341	:	DECISION ON PETITION
Filed: June 17, 2002	:	TO WITHDRAW
Attorney Docket No. 18430-06941	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 11, 2006.

The request is **MOOT**.

A review of the file record indicates that the power of attorney to FENWICK & WEST LLP has been revoked by the assignee of the patent application on June 28, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the correspondence address of record until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4914.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SECOND SIGHT MEDICAL PRODUCTS, INC.
12744 SAN FERNANDO ROAD
BUILDING 3
SYLMAR, CA 91342

COPY MAILED
JUL 26 2006
OFFICE OF PETITIONS

In re Application of	:	
Greenberg et al.	:	
Application No. 10/174,349	:	ON PETITION
Filed: June 17, 2002	:	
Attorney Docket No.	:	
S112-USA	:	

This is a decision on the Petition for Acceptance of an Unintentionally Delayed Claim for Priority, filed January 13, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

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

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

The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with item (**1**)

The amendment attempts to claim priority to application no. 60/372,062; however, common inventorship does not exist between the above-identified application and provisional application no. 60/372,062. As such, there is no common inventorship between the applications.

Moreover, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(6) and either an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) correcting the above matters are required.

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

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

By hand: Customer Service Window
Mail Stop Petitions

Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Any questions concerning this matter may be directed to Attorney Derek L. Woods at (571) 272-3232.

Frances Hicks

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
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PATENT COUNSEL
APPLIED MATERIALS, INC.
LEGAL AFFAIRS DEPARTMENT
P. O. BOX 450A, MS/2061
SANTA CLARA, CA 95052

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DEC 16 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Shanmugasundram, et al. :
Application No. 10/174,370 :
Filed: June 18, 2002 :
Attorney Docket No. 6039/FPS/MMCS/APC/DV :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 8, 2004 to withdraw the above-identified application from issue after payment of the issue fee.

It does not appear that the instant petition is signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Scott M. Alter appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. However, if Mr. Alter desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to Mr. Alter, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 28, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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

The application is being forwarded to Technology Center AU 2825 for further processing of the request for continued examination under 37 CFR 1.114 filed December 8, 2004.

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

cc: SCOTT M. ALTER
RESTON TOWN CENTER
11951 FREEDOM DRIVE
RESTON, VA 20190

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FROM DIRECTORS OFFICE

SEP 07 2005

TECHNOLOGY CENTER 3600

Moser, Patterson & Sheridan, L.L.P.
3040 Post Oak Boulevard
Suite 1500
Houston, TX 77056-6582

In re Application of:	:	
Manfred Jansch	:	NOTICE OF WITHDRAWAL
Application No. 10/174,416	:	FROM ISSUE
Filed: June 18, 2002	:	UNDER 37 CFR § 1.313(b)
Attorney Docket No.	:	
MRKS/A0011C1		

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 Brian Glessner (571)-272-6843.

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: Office of Patent Publication

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4-12-07

TO SPE OF : ART UNIT 3676

SUBJECT : Request for Certificate of Correction on Patent No.: 7124828

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

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

Valerie Jackson

Thank You For Your Assistance

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

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

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

Comments:

SPE

3676
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BAKER & DANIELS LLP
205 W. JEFFERSON BOULEVARD
SUITE 250
SOUTH BEND, IN 46601

MAILED
FROM DIRECTORS OFFICE

JAN 3 1 2006

TECHNOLOGY CENTER 3600

In re application of
Richard Jay Seavy
Application No. 10/174,421
Filed: June 18, 2002
For: STRUCTURES INCORPORATING INTERLOCKING WALL MODULES

: DECISION ON REQUEST
: FOR WITHDRAWAL OF
: ATTORNEY

This is a decision on the request filed on October 24, 2005, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

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

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

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

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

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

The request to withdraw as attorney in the above-identified application is not approved as moot because the attorney making the request; Eric J. Groen, does not now have, and apparently never has had, power of attorney in this application.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/slb 01/18/06

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MAY 11 2006
OFFICE OF PETITIONS

BAKER & DANIELS, LLP
205 W. JEFFERSON BOULEVARD
SUITE 250
SOUTH BEND, IN 46601

In re Application of	:	
Richard Jay Seavy	:	DECISION ON REQUEST
Application No. 10/174,421	:	TO WITHDRAW FROM
Filed: June 18, 2002	:	RECORD
Attorney Docket No. MEM0001	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed February 6, 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 CFR § 1.136(a).

The request was signed by Eric J. Groen, on behalf of all attorneys or agents of record.

A review of the file record indicates that Eric J. Groen and those practitioners referred to in the request: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. Eric J. Groen and those practitioners referred to in the request may not prepare or submit papers, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 CFR § 1.32(b).

All the attorneys or agents have been withdrawn. Therefore, Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the sole inventor, Richard J. Seavy, at the address indicated below.

There is an outstanding Office action mailed March 16, 2006 that requires a reply from the applicant.

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

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee: Denise Pothier

cc: Richard J. Seavy
180 Air Park Drive
Wilsonville, AL 35186

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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DIW 03-03

Paper No. 9

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

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MAR 1 8 2003

OFFICE OF PETITIONS

In re Application of	:	
Rodgers et al.	:	
Application No. 10/174,443	:	DECISION GRANTING PETITION
Filed: 18 June, 2002	:	
Attorney Docket No. 98,094-B2	:	

This is a decision on the petition filed on 26 February, 2003, requesting that the above-identified application, without drawings, be accorded a filing date of 18 June, 2002.

The application was filed on 18 June, 2002, without drawings.[1] Accordingly, on 13 January, 2003, 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 26 February, 2003, the present petition was filed. Petitioner asserts that 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 18 June, 2002.

It has been PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).[2] A review of the record reveals that Claims 1-5, 16-20, and 23-25 are method claims. Therefore, the present application is deemed to be an application

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

[2] MPEP 601.01(f).

which does not require a drawing for an understanding of the invention. Accordingly, the application, without drawings, is entitled to a filing date.

The petition is granted. The petition fee of $130.00 will be refunded to counsel's deposit account, No. 13-2490.

The "Notice" mailed on 13 January, 2003, was sent in error and is hereby vacated.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 18 June, 2002.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

RICHARD F. JAWORSKI
COOPER & DUNHAM
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

COPY MAILED

AUG 1 4 2002

OFFICE OF PETITIONS

In re Application of	:	
Ron Reiss et al	:	
Application No. 10/174,463	:	NOTICE
Filed: June 17, 2002	:	
Attorney Docket No. 2689/67585	:	

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Leslie E. Ash	: DECISION ON REQUEST FOR
Patent Number	: 7647418	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/174,481	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/19/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1601** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11-7-06

TO SPE OF : ART UNIT 1752

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/174497 Patent No.: 6984480

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.

Can C of C be Approved

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

E Young

Certificates of Correction Branch

703-308-9390 ext. 117

Thank You For Your Assistance

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

Note your decision on the appropriate box.

- ☑ Approved — All changes apply.
- ☐ Approved in Part — Specify below which changes do not apply.
- ☐ Denied — State the reasons for denial below.

Comments: _____

SPE

1752

Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5-1309

TO SPE OF : ART UNIT 1752

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/174497 Patent No.: 6984982

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES: Please Review COFC (4-9-08)

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced; nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9C62-D
Palm Location 7580

Ennis Young
Certificates of Correction Branch
703-756-1542

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Cynthia H Kelly — SPE

1795 — Art Unit

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WILLIAM N. HULSEY
HULSEY INTELLECTUAL PROPERTY LAWYERS, P.C.
1250 S. CAPITAL OF TEXAS HWY.
AUSTIN, TX 78746

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DEC 1 5 2005

OFFICE OF PETITIONS

In re Application of :
William H. Rice :
Application No. 10/174,498 :
Filed: June 17, 2002 :
Attorney Docket No. RICE002US0 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed April 1, 2005, to revive the above-identified application. The petition was recently forwarded to this office for review.

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)."

This application became abandoned for failure to timely file a proper reply to the non-final Office action mailed June 24, 2004. Accordingly, this application became abandoned on September 25, 2004. A Notice of Abandonment was mailed on January 27, 2005.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

(1) The required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;

(2) The petition fee as set forth in § 1.17(l);

(3) A showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and

(4) Any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

This petition lacks items (1) and (3), above.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

Regarding item (1):

The required reply to the non-final Office action has not been submitted. As such, the petition must be dismissed.

Regarding item (3):

Petitioner asserts that the delay was caused by non-receipt of the Office action. A review of the application file indicates the Office action mailed June 24, 2004 was properly mailed to the correspondence address of record at the time of mailing.[1] Additionally, it is noted that a "Request For Withdrawal as Attorney or Agent and Change of Correspondence Address" was filed on September 27, 2004, and was granted on October 27, 2004.

Please note, a delay caused by the failure on the part of petitioner, or petitioner's representative, to provide the Patent and Trademark Office with a current correspondence address does not constitute an unavoidable delay. See Ray v. Lehman, 55 F.3d 606, 34 USPQ2d 1786 (Fed. Cir. 1995).

[1] It is noted that the review indicates the Office action was returned to the Office as undelivered on July 8, 2004.

Furthermore, please note, the Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and petitioner is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962); Huston v. Ladner, 973 F.2d 1564, 1567, 23 U.S.P.Q.2d 1910, 1913 (Fed. Cir. 1992); see also Haines v. Quigg, 673 F. Supp. 314, 317, 5 U.S.P.Q.2d 1130, 1132 (D.N. Ind. 1987).

Accordingly, the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).

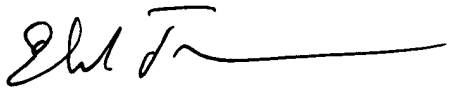
Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries should be directed to the undersigned at (571) 272-3228.



Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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LOWRIE, LANDO & ANASTASI
RIVERFRONT OFFICE
ONE MAIN STREET, ELEVENTH FLOOR
CAMBRIDGE, MA 02142

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AUG 13 2004
OFFICE OF PETITIONS

In re Application of :
Ihor A. Lys, et al. :
Application No. 10/174,499 : ON PETITION
Filed: June 17, 2002 :
Attorney Docket No. C01104/70104 :

This is a decision on the petition, filed August 2, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 8, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being referred to Technology Center AU 2821 for further processing of the request for continued examination under 37 CFR 1.114 filed August 2, 2004.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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CAMBRIDGE MA 02142

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DEC 20 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Ihor A.Lys, et al. :
Application No. 10/174,499 :
Filed: June 17, 2002 :
Attorney Docket No. C01104/70104 :

This is a decision in response to the petition under 37 CFR 1.313 filed December 10, 2004, requesting that the above-identified application be withdrawn from issue.

Petitioner requests that the application be withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination) filed on even date. See 37 CFR 1.313(c)(2).

The petition is dismissed as moot.

In reviewing the application, it is noted that the filing of a petition under 37 CFR 1.313 is not an appropriate course of action in this case, since a new Notice of Allowance and Issue Fee Due for the RCE filed August 2, 2004 has not been mailed. It appears that that the wrong application number has been identified in the petition.

This application is being referred to Technology Center 2821 for appropriate action on the IDS and the RCE filed August 2, 2004.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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HOWREY LLP - East
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DR, SUITE 200
FALLS CHURCH, VA 22042-2924

Mail Date: 04/26/2010

Applicant	: Clifford Weber	: DECISION ON REQUEST FOR
Patent Number	: 7571130	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/174,505	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/17/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1883** 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

#7 DW

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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APR 22 2004

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OFFICE OF THE DIRECTOR
TC 3600

HENRY M FEIEREISEN, LLC
350 FIFTH AVENUE
SUITE 4714
NEW YORK, NY 10118

In re Application of :
Wolfgang Pflugner et al :
Application No. 10/174,542 :
Filed: June 17, 2002 :
For: SUSPENSION STRUT BEARING FOR A SUSPENSION STRUT

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicants' petition to withdrawal the holding of abandonment filed on January 16, 2004.

The petition is **GRANTED** in view of the following evidence of timely filing :

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____ which identifies the application by serial number and the type of Response that was filed on that date.

☒ Certificate of Mailing/Transmission signed on June 13, 2003. and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

cps/4/21/04

Randolph A. Reese
Special Programs Examiner
Group 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 5

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DEC 13 2002

OFFICE OF PETITIONS

Herman H. Bains
6101 Tracy Avenue
Minneapolis MN 55436

In re Application of	:	
Robert A. Forest	:	
Application No. 10/174,555	:	DECISION ON PETITION
Filed: June 19, 2002	:	
Attorney Docket No.: 2002F	:	
Title: TRASH RECEPTACLE AND ATTACHMENT	:	

This is a decision on the petition under 37 CFR 1.137(a)[1], filed November 25, 2002, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration or petition under 37 CFR 1.137(a) must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extension of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(a)". This is not a final agency action within the meaning of 5 U.S.C 704.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice), mailed July 25, 2002, which indicated that substitute drawings would be required, and set a shortened statutory period for reply of two (2) 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 September 26, 2002.

---

1 A grantable petition pursuant to 37 CFR 1.137(a) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;

(2) The petition fee as set forth in § 1.17(l);

(3) A showing to the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable;

(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

With the instant petition, petitioner has included the petition fee, substitute drawings, and a declaration of facts from the attorney of record which asserts that the Notice was not received.

The instant petition lacks item (3) above.

As to item (3), the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 37 CFR 1.137(a).

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

"In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference."[2]

"[T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense."[3]

"The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'"[4]

"The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency."[5]

The standard

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[6]

The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[7]

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2 Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency's interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

3 Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

4 Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. 706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

5 Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

6 Id.

Nonawareness of a PTO rule will not constitute unavoidable delay[8]

The burden of showing the cause of the delay is on the person seeking to revive the application[9].

A delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice, or the MPEP is not rendered "unavoidable" due to either the applicant's reliance upon oral advice from USPTO employees or the USPTO's failure to advise the applicant to take corrective action[10].

The portion of the MPEP relevant to the abandonment of this application

MPEP 711.03(c) states, in part:

PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION

In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See Lorenz v. Finkl, 333 F.2d 885, 889-90, 142 USPQ 26,

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7 See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

8 See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.

9 Id.

10 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

29-30 (CCPA 1964); Krahn v. Commissioner, 15 USPQ2d 1823, 1824 (E.D. Va 1990); In re Application of Fischer, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

Two additional procedures are available for reviving an application that has become abandoned due to a failure to reply to an Office Action: (1) a petition under 37 CFR 1.137(a) based upon unavoidable delay; and (2) a petition under 37 CFR 1.137(b) based on unintentional delay.

Application of the standard to the current facts and circumstances

In the instant petition, petitioner maintains that the circumstances that led to the abandonment of the application meet the aforementioned unavoidable standard and, therefore; petitioner qualifies for relief under 37 CFR 1.137(a). In support thereof, petitioner contends that this mailing was never received.

Petitioner has failed to establish non-receipt of an Office communication, in that he has not submitted an attestation to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.

Furthermore, he has failed to supply a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed. A docket report is a mail log, recorded by the person who receives all incoming mail. A docket report should show all incoming mail received during the relevant time period.

For these reasons, petitioner has failed to show the correspondence at issue was not received and merely misplaced and filed with another file.

Should petitioner desire to file a renewed petition, petitioner should include a copy of the docket report and attest to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.

On the facts presented, this situation fails to constitute unavoidable delay. These facts might constitute an unintentional delay in prosecution, but it certainly does not rise to the level of unavoidable.

Therefore, it is determined that the petitioner cannot establish that the entire delay in filing the required reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable which is required in order for relief to be granted under 37 CFR 1.137(a).

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b) [11].

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11 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.

In light of the recent events, the USPTO **strongly** prefers that the reply to this letter be submitted by facsimile[12]. However, if applicant cannot submit the reply to this letter by facsimile (or hand-delivery[13]), the reply may be mailed[14].

The application file will be retained in the Office of Petitions for two (2) months.

Notice regarding fees:

Historically the fees that the USPTO charges for doing business increase at the beginning of each fiscal year (October 1). However, no final determination has been made on fees for FY03 at this point, and fiscal year 2003 was started with the same fee structure as last fiscal year.

Please be advised that applicants should monitor the USPTO website for future updates whenever any necessary money is sent.

For more information, see www.USPTO.gov, click on "News and Notices", and under the "Patents" column you will find the above information[15].

Telephone inquiries should be directed to Paul Shanoski, Petitions Attorney, at (703) 305-0011.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

12 (703) 308-6916, Attn: Office of Petitions.

13 Office of Petitions, 2201 South Clark Place, Crystal Plaza 4, Suite 3C23, Arlington, VA 22202.

14 Commissioner for Patents, Box DAC, Washington, DC 20231.

15 The direct URL is: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/feenotice.htm

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Washington, D.C. 20231
www.uspto.gov

Paper No. 7

Herman H. Bains
6101 Tracy Avenue
Minneapolis MN 55436

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JAN 1 0 2003

OFFICE OF PETITIONS

In re Application of
Robert A. Forest
Application No. 10/174,555
Filed: June 19, 2002
Attorney Docket No.: 2002F
Title: TRASH RECEPTACLE AND ATTACHMENT

DECISION ON PETITION

This is a decision on the petition filed on December 30, 2002, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice), mailed July 25, 2002, which indicated that substitute drawings would be required, and set a shortened statutory period for reply of two (2) 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 September 26, 2002.

With the instant petition, 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 the payment of the petition fee, and the proper statement of unintentional delay. It is noted that substitute drawings were received in the Office on November 25, 2002.

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1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The application file is being forwarded to Technology Center 3700 for further processing.

Telephone inquiries concerning this decision should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.

Paul Shanoski
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

#17

Peter J. Cronk
DUANE MORRIS LLP
One Liberty Place
Philadelphia, PA 19103-7396

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OFFICE OF PETITIONS

In re Application of	:	
Jon H. Woolstencroft, et al.	:	
Application No. 10/174,580	:	ON PETITION
Filed: June 19, 2002	:	
Attorney Docket No. D1815-00054	:	

This is a decision on the petition, filed February 1, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 22, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 3752 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
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).

D1815-54
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SEP 29 2005

DOCKETED

PETER J. CRONK
DUANE MORRIS LLP
ONE LIBERTY PLACE
PHILADELPHIA, PA 19103-7396

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SEP 27 2005

OFFICE OF PETITIONS

In re Application of
Jon H. Woostencroft, et al.
Application No. 10/174,580
Filed: June 19, 2002
Attorney Docket No.: D1815-00054

ON PETITION

Copy of paper mailed 09/27/2005.

SA 2/8/06

This is a decision on the petition, filed September 18, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 30, 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]

It is noted that the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: " Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

The application is being referred to Technology Center AU 3754 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: DUANE MORRIS LLP
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103-4196

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PETER J. CRONK
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PHILADELPHIA, PA 19103-7396

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SEP 27 2005

OFFICE OF PETITIONS

In re Application of :
Jon H. Woostencroft, et al. :
Application No. 10/174,580 : ON PETITION
Filed: June 19, 2002 :
Attorney Docket No.: D1815-00054 :
:

This is a decision on the petition, filed September 18, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 30, 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]

It is noted that the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: " Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

The application is being referred to Technology Center AU 3754 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: DUANE MORRIS LLP
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103-4196

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Milton S. Sales
Patent Legal Staff
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Rochester NY 14650-2201

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OFFICE OF PETITIONS

In re Application of
Ortiz, et al.
Application No.: 10/174,602
Filed: June 19, 2002
Attorney Docket No.: 84740F-P

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 27, 2007, to revive the above-identified application.

The petition is **granted**.

This application became abandoned as a result of petitioners' 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 October 31, 2006 (October 27, 2006), and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on December 28, 2006. *See* MPEP 1215.04.

Applicants have submitted an Appeal Brief, an acceptable statement of the unintentional nature of the delay in filing the Appeal Brief, and authorization to charge the $1,500.00 petition fee. The fee is being charged to petitioners' deposit account.

After the mailing of this decision, the file will be forwarded to Technology Center AU 2146 for consideration of the Appeal Brief.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of Armbruster et al. :
Application No. 10/174,606 : Decision on Petition
Filing Date: June 19, 2002 :
Attorney Docket No. IRJ05420 :

This is a decision on the petition under 37 CFR 1.137(a), filed March 8, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

Facts:

A final Office action was mailed on May 18, 2005.

A reply was filed on July 13, 2005.

The reply failed to *prima facie* place the application in condition for allowance.

An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on August 19, 2005.

An Advisory Action was mailed on January 30, 2006.

The instant petition, request for an extension of time, and Notice of Appeal were filed on March 8, 2006.

Discussion:

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).

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"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[1] The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[2] A lack of knowledge of, or failure to understand, a PTO rule, the content of the MPEP, or an Official Gazette notice will not constitute unavoidable delay.[3]

Petitioner relies on the late mail date of the advisory action to establish unavoidable delay. A delay is not rendered "unavoidable" due to the Office's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action.[4]

Petitioner's belief that the amendment placed the application in condition for allowance was not a guarantee the amendment would be entered by the examiner. The entry of an after-final amendment is not a matter of right.

When the last day to file a reply arrived, petitioner chose to continue to wait for a response from the examiner and risk abandonment. However, petitioner could have chosen to eliminate the risk of abandonment by filing a Notice of Appeal or Request for Continued Examination (RCE). An individual, treating the application the same as a reasonable and prudent person would treat his or her most important business, would have taken steps to ensure the application did not become abandoned rather than simply assume the amendment would be entered.

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 ($1,500 for a small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Payment for an extension of time is unnecessary when reviving an application. Therefore, the $1,020 paid for a three month extension of time will be credited back to petitioner's deposit account.

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[1] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

[2] See In re Mattullath, 38 App. D.C. 497 (D.C. Cir. 1912).

[3] See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D. D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay); Vincent v. Mossinghoff, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D. D.C. 1985) (Plaintiffs, through their counsel's actions, **or their own**, must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

[4] See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985); see also In re Colombo, Inc., 33 USPQ2d 1530, 1532 (Comm'r Pat. 1994) (while the Office attempts to notify applicants of deficiencies in their responses in a manner permitting a timely correction, the Office has no obligation to notify parties of deficiencies in their responses in a manner permitting a timely correction).

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Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)."

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Copied from 10776470 on 06/08/2006

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Paper No. 7

Gregory L. Bradley
Medrad Inc.
One Medrad Drive
Indianola, PA 15051

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OFFICE OF PETITIONS

In re Application of :
David M. Reilly :
Application No. 10/174,631 :
Filed: June 19, 2002 :
Attorney Docket No. VI/99-022.D :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 5, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the non-final Office action mailed November 19, 2002, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on February 20, 2003.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

The application file is being forwarded to Technology Center AU 3763.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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HENRICKS, SLAVIN & HOLMES
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EL SEGUNDO CA 90245

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JUN 16 2005

OFFICE OF PETITIONS

In re Application of	:	
Gary F. Hawkins	:	
Application No. 10/174,648	:	ON PETITION
Filed: June 18, 2002	:	
Attorney Docket No. 700700-021c1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 7, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed October 22, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on January 25, 2005.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Patent Publication.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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1 DNA WAY
SOUTH SAN FRANCISCO CA 94080

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OFFICE OF PETITIONS

In re Patent No. 7,259,245	:	
De Sauvage et al.	:	DECISION ON REQUEST
Issue Date: August 21, 2007	:	FOR
Application No. 10/174,653	:	RECONSIDERATION OF
Filed: June 17, 2002	:	PATENT TERM ADJUSTMENT
Atty Docket No. P1272R1P1D1	:	

This is a decision on the "SUPPLEMENTAL REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)[1]," filed September 26, 2007. Patentees request an addition of 678 days of patent term adjustment for a total of one thousand two hundred ninety-nine (1299) days.

The request for reconsideration of the patent term adjustment under § 1.705(d) is **DISMISSED**.

Patentees are given **TWO (2) MONTHS** from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

On August 21, 2007, the above-identified application matured into U.S. Patent No. 7,259,245, with a revised Patent Term

[1] Patentees state that the initial REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d) was timely filed on September 18, 2007 (but misidentified the patent to which it was directed). It is noted that, as of the date of review of this request, the other request has not been located and made of record in this application. Thus, it is not considered filed in this application. Nonetheless, no rights are lost inasmuch as the instant request was also timely filed.

Adjustment of 621 days. The instant request for reconsideration filed September 26, 2007 was timely filed within 2 months of the date the patent issued. See § 1.705(d). Patentees assert that an additional period of adjustment of 678 days should have been entered for the Office taking in excess of three years to issue the patent.

With respect to §1.703(b), it is noted that the patent issued three years and 795 days after its filing date. However, the period for over 3 year pendency does not as argued overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application. Patentees are incorrect in treating the relevant period as starting on June 18, 2005, the date that is 3 years after the actual filing date of the application.

Any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap, with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. Further, in considering the overlap, the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). See 35 U.S.C. 154(b)(1)(B); 35 U.S.C. 154(b)(2)(A); and 37 CFR 1.703(f). In this instance, it was properly concluded that the 727 days accorded pursuant to 1.702(a)(1) and (4) for Office delay during the pendency of the application overlapped. Thus, only the additional non-overlapping period of (795 - 727) 68 days was entered for Office delay in issuing the patent pursuant to 37 CFR 1.703(b).

In view thereof, the patent term adjustment of 621 days indicated in the patent is correct.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 7

ST. ONGE STEWARD JOHNSTON & REENS, LLC
986 BEDFORD STREET
STAMFORD, CT 06905-5619

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MAY 13 2004
OFFICE OF PETITIONS

In re Application of :
Peter Frijlink :
Application No. 10/174,667 :
Filed: June 19, 2002 :
Attorney Docket No. 03345-P0020A :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 26, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed July 22, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 23, 2002.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No.

GLADYS H. MONROY
MORRISON & FOERSTER LLP
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PAL ALTO, CA 94304

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OFFICE OF PETITIONS

In re Application of
Eric Charles Reynolds et al
Application No. 10/174,695
Filed: June 18, 2002
Attorney Docket No. 529282000700

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 September 29, 2003, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/AU00/01588, filed December 21, 2000 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 June 18, 2002, and was pending at the time of filing of the instant petition. A reference to the prior-filed PCT application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

---

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed PCT application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed PCT application was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. §§ 120 and 365(c). Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and (365(c) to the prior-filed PCT application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Karen Creasy at (703) 305-8859.

The examiner of Technology Center Art Unit 1645 will consider applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to prior-filed PCT Application No. PCT/AU00/01588, filed December 21, 2000.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/174,698	06/19/2002	Donald Verna	PMP-207-B	8023

7590 11/27/2002

Andrew R. Basile
Young & Basile, P.C.
Suite 624
3001 West Big Beaver Road
Troy, MI 48084

EXAMINER
CASTELLANO, STEPHEN J

ART UNIT	PAPER NUMBER
3727	

DATE MAILED: 11/27/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Serial Number: 10/174698
Art Unit: 3727

1. In view of the papers filed November 26, 2002, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed by Adding Douglas Cox.

A corrected filing receipt is attached which reflects the inventorship as corrected.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lee Young whose telephone number is (703) 308-2572.

ly
November 26, 2002

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Commissioner for Patents
Washington, DC 20231
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APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	DRAWINGS	TOT CLAIMS	IND CLAIMS
10/174,698	06/19/2002	3727	370	PMP-207-B	16	20	1

CONFIRMATION NO. 8023

CORRECTED FILING RECEIPT

OC000000009164821

Andrew R. Basile
Young & Basile, P.C.
Suite 624
3001 West Big Beaver Road
Troy, MI 48084

Date Mailed: 11/27/2002

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)

Donald Verna, Wixom, MI;
Douglas T. Cox, Lennon, MI;

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/367,688 03/26/2002

Foreign Applications

If Required, Foreign Filing License Granted: 07/23/2002

Projected Publication Date: 10/02/2003

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Stackable tray having anti-pivot stop and wash apertures

Preliminary Class
206

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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FULBRIGHT & JAWORSKI L.L.P
2200 ROSS AVENUE
SUITE 2800
DALLAS, TX 75201-2784

Mail Date: 04/21/2010

Applicant	: Jose L. Esquivel	: DECISION ON REQUEST FOR
Patent Number	: 7634243	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/174,726	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/19/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1856** 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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SUITE 1600
CHICAGO IL 60603-3406

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OFFICE OF PETITIONS

In re Application of	:	
Nikolskaya et al.	:	DECISION ON PETITION
Application No. 10/174,762	:	
Filed: 18 June, 2002	:	
Atty Docket No. 73876	:	

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on 27 October, 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 on 1 October, 2002, for failure to timely file a response to the Notice to File Missing Parts of

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional 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)).

Nonprovisional Application mailed on 30 July, 2002, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. The filing of the present petition precedes the mailing of Notice of Abandonment.

The petition lacks items (1) and (2), as referenced by 37 CFR 1.137(b).

The petition lacks the required reply. Although petitioners have filed substitute drawings, no oath or declaration in compliance with 37 CFR 1.63 is located among the papers received with the present petition on 27 October, 2005. As such, an executed oath or declaration must be filed with any renewed petition.

Additionally, the petition lacks 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.* (Emphasis added). The required statement of unintentional delay must be submitted with any renewed petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Nikolskaya et al.	:	DECISION ON PETITION
Application No. 10/174,762	:	
Filed: 18 June, 2002	:	
Atty Docket No. 73876	:	

This is a decision on the renewed petition under 37 CFR 1.137(b),[1] filed on 9 May, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 1 October, 2002, for failure to timely file a response to the Notice to File Missing Parts of Nonprovisional Application mailed on 30 July, 2002, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained.

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The petition filed on 27 October, 2005, was dismissed on 14 March, 2006.
Petitioners filed substitute drawings with the petition filed on 27 October, 2005. Additionally, an executed declaration was filed with the present petition.

The application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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SUITE 106
500 RENAISSANCE DRIVE
ST. JOSEPH MI 49085

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Tatiang Nikolskaya et al.
Application No. 10/174,762
Filed: February 5, 2003
Attorney Docket No. GENE.001.P

This is a decision on the petition filed September 21, 2007, to revive the above identified application under 37 CFR 1.137(b)[1].

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 on February 21, 2007, for failure to file a timely response to a Restriction Requirement mailed January 17, 2007, which set a one month shortened statutory period for reply. No extensions of the time for reply under 37 CFR 1.136(a) were obtained prior to the expiration of the extendable period. Accordingly, a Notice of Abandonment was mailed September 12, 2007.

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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)).

Petitioner files the instant petition under 37 CFR 1.137(b) [2] however, the petition lacks item (1) above as the response to the Office Action hasn't been filed.

This application will remain in an abandoned status until such time as the requirements set out in the Restriction Requirement mailed January 17, 2007 have been complied with.

A courtesy copy of the Restriction Requirement accompanies this decision.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[2] 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/174,762	02/05/2003	Tatiang Nikolskaya	73876	6689

22242 7590 01/17/2007
FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

EXAMINER
SKOWRONEK, KARLHEINZ R

ART UNIT	PAPER NUMBER
1631	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
31 DAYS	01/17/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/174,762	NIKOLSKAYA ET AL.	
	Examiner	Art Unit	
	Karlheinz R. Skowronek	1631	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on 19 September 2006.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-9 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) 1-9 are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-6, drawn to a method of reconstructing the metabolism of an organism, classified in class 703, subclass 12.

II. Claim 7, drawn to a method of identifying drug targets, classified in class 702, subclass 19.

III. Claim 8, drawn to a method of identifying targets for gene therapy, classified in class 702, subclass 19.

IV. Claim 9, drawn to a method of identifying interconnections between biological processes, classified in class 702, subclass 19.

The inventions are distinct, each from the other because of the following reasons:

Inventions of Groups I-IV are directed to related processes. The related inventions are distinct if the (1) the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect; (2) the inventions do not overlap in scope; and (3) the inventions as claimed are not obvious variants. See MPEP § 806.05(j). In the instant case, for example, the method of group I, directed to metabolism reconstruction with Expressed sequence Tag data, is distinct from the method of Group II, drug target identification, because the inventions have different modes of operations, i.e. the steps required to carry out the invention of group I are different from those of group II, and the inventions do not overlap in scope,

i.e. the invention of group I can determine the effects of 3 kg of glucose on an organism whereas the invention of group II creates a map of an organisms metabolism to identify drug targets. The invention of group I is distinct from the method of Group III, directed to gene therapy targets, because the inventions have different modes of operations, i.e. the steps required to carry out the invention of group I are different from those of group III, and the inventions do not overlap in scope, i.e. the invention of group I can determine the effects of 3 kg of glucose on an organism whereas the invention of group III creates a map of an organisms metabolism to identify gene therapy targets. The invention of group I is distinct from the method of Group IV, directed to interconnections between biological processes, because the inventions have different modes of operations, i.e. the steps required to carry out the invention of group I are different from those of group IV, and the inventions do not overlap in scope, i.e. the invention of group I can determine the effects of 3 kg of glucose on an organism whereas the invention of group V creates a map of an organisms metabolism to identify interconnections between biological processes. The invention of group II is distinct from the method of Group III, directed to gene therapy targets, because the inventions have different modes of operations, i.e. the steps required to carry out the invention of group II are different from those of group III, and the inventions do not overlap in scope, i.e. the invention of group II identifies drug targets whereas the invention of group III identifies gene therapy targets. The invention of group II is distinct from the method of Group IV, directed to interconnections between biological processes, because the inventions have different modes of operations, i.e. the steps required to carry out the invention of group II are

different from those of group IV, and the inventions do not overlap in scope, i.e. the identity of a drug target is not an interconnection. The invention of group III is distinct from the method of Group IV, directed to interconnections between biological processes, because the inventions have different modes of operations, i.e. the steps required to carry out the invention of group III are different from those of group IV, and the inventions do not overlap in scope, i.e. the identity of a gene therapy target is not an interconnection .

Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

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).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karlheinz R. Skowronek whose telephone number is (571) 272-9047. The examiner can normally be reached on Mon-Fri 8:00am-5:00pm (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Wang can be reached on (571) 272-0811. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Karlheinz R. Skowronek/
KRS

MICHAEL BORIN, PH.D
PRIMARY EXAMINER

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GENEGO, INC. ADDRESS: ATTN: YURI NIKOLSY
SUITE 106
500 RENAISSANCE DRIVE
ST. JOSEPH MI 49085

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JUL 1 8 2008

OFFICE OF PETITIONS

In re Application of :
Tatiang Nikolskaya et al. :
Application No. 10/174,762 :
Filed: February 5, 2003 :
Attorney Docket No. GENE.001.P :

ON PETITION

This is a decision on the renewed petition filed June 17, 2008, to revive the above identified application under 37 CFR 1.137(b)[1].

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application became abandoned on February 21, 2007, for failure to file a timely response to a Restriction Requirement mailed January 17, 2007, which set a one month shortened statutory period for reply. No extensions of the time for reply under 37 CFR 1.136(a) were obtained prior to the expiration of the extendable period. Accordingly, a Notice of Abandonment was mailed September 12, 2007. A petition filed September 21, 2007 was dismissed in a decision mailed February 27, 2008 because the response was not actually filed with the petition.

The petition fee in the amount of $750.00 was paid with the September 21, 2007 petition and has been applied to the finance records for the instant patent application and thus, since this is a renewed petition, no other petition fees are required. Furthermore, since the decision mailed February 27, 2008 set a two month period for reply, to make the instant renewed petition timely, only a two month extension of time is required. All other fees charged with the instant petition are being refunded to the deposit account of Morrison & Foerster.

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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)).

Additionally, however, there is no indication that Morrison & Foerster was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

The response to the Restriction Requirement filed January 17, 2008 will be referred to Technology Center 1631 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:

MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

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Paper No. 7

THORPE NORTH & WESTERN, LLP
P.O. Box 1219
Sandy UT 84091-1219

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SEP 29 2003
OFFICE OF PETITIONS

In re Application of
Hall, et al.
Application No. 10/174,764
Filed: June 18, 2002
Attorney Docket No. 20797
For: SYSTEM AND METHOD FOR WIRELESS DATA TRANSFER FOR A MOBILE UNIT

ON PETITION

This decision on the August 25, 2003 (certificate of mailing date August 19, 2003) petition under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 USC 119(e) for the benefit of a prior filed provisional application.

The petition is **GRANTED.**

The instant petition requests acceptance of a delayed claim of benefit of provisional application no. 60/298,982, filed on June 18, 2001.

Generally, a claim of benefit under 35 U.S.C. 119(e) is required to be filed during the pendency of the nonprovisional application that seeks to claim the invention disclosed in an earlier-filed provisional application.[1] However, when the nonprovisional application is filed on or after November 29, 2000, as is in the instant case, the claim of benefit must be filed **not merely** during the pendency of the nonprovisional application, **but** within either 4 months of its filing date, or 16 months of the filing date of the provisional application, whichever is later.

The claim of benefit submitted with the instant petition is filed during the pendency of the nonprovisional application, but subsequent to 4 months of its filing date or 16 months of the filing date of the provisional application. Such a delayed claim of benefit under 35 U.S.C. 119(e) may be accepted under a petition that includes:

(1) The claim of benefit (in the form of a specific reference to the provisional application) in an application data sheet or in the first sentence of the specification following the invention title, unless previously submitted;[2]

---

[1] Assuming the following conditions are also met: (1) the nonprovisional application is filed within 12 months of the filing date of the provisional application; (2) the provisional application is entitled to a filing date, has at least 1 common inventor as that named in the nonprovisional application, and discloses that common inventor's invention which is claimed in at least 1 claim of the nonprovisional application; (3) the basic filing fee for the provisional application has been paid. 35 U.S.C. 119(e)(1); 37 CFR 1.78(a)(4).

[2] 37 CFR 1.78(a)(5)(iii), (6)(I). The instant petition is accompanied by an amendment that includes, in the 1st sentence of the specification, a reference to the claim of benefit of the provisional application.

(2) The $1,300 surcharge set forth in 37 CFR 1.17(t);[3]

(3) A statement that the entire delay (between the time the claim of benefit was due and the filing of the claim) was unintentional.[4]

The petition meets the above requirements and is thus granted.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 119 and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

This application is being forwarded to Technology Center Art Unit 2681 for further examination and for processing and consideration by the Examiner of applicant's claim under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(4) and (5) for the benefit of priority to the prior-filed provisional application.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney E. Shirene Willis at (703) 308-6712.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

---

[3] 37 CFR 1.78(a)(6)(ii). The fee has been paid by check.

[4] 37 CFR 1.78(a)(6)(iii); contained in petition.

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THORPE NORTH & WESTERN LLP
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SANDY, UT 84091-1219

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JUL 28 2006

OFFICE OF PETITIONS

In re Application of	:
Eric S. Hall et al	:
Application No. 10/174,764	: DECISION GRANTING PETITION
Filed: June 18, 2002	: UNDER 37 CFR 1.137(b)
Attorney Docket No. 20797	:

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 is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 15, 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 16, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply/amendment to the non-final Office action of October 15, 2004; (2) the $750 petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of October 15, 2004 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2618 for appropriate action in the normal course of business on the reply received October 27, 2005.

Frances Hicks
Petitions Examiner
Office of Petitions

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FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

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JUN 1 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Christina Bendz, et. al.	:	
Application No. 10/174,784	:	DECISION ON PETITION
Filed: June 18, 2002	:	
Attorney Docket No. 13425-113001/00572-US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on July 27, 2007, to revive the above-identified application.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114 with the $790 filing fee and an amendment; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED.**

This application is being revived for consideration of the RCE.

The Office acknowledges receipt of $2,160 for a five (5) month extension of time filed on July 27, 2007. However, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $2,160 extension of time was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The application file is being referred to Technology Center Art Unit 1656 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Jack Brennan
Fish & Richardson, P.C.
Citigroup Center
153 East 53rd Street
New York, NY 10022-4611

SCAN! Please forward case and paper to address shown below.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/8/08

TO SPE OF : ART UNIT 1641 Gabel, Gail

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/174797 Patent No.: 7166469

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [X] Approved — All changes apply.
- [ ] Approved in Part — Specify below which changes do not apply.
- [ ] Denied — State the reasons for denial below.

Comments: No new matter is introduced; Scope and meaning of claims is not changed. Corrections are intended to properly correct printing errors on the part of USPTO. Gailene R. Gabel

[signature] SPE

1641 Art Unit

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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Paper No. 112503

Brian Roffe, Esq.
11 Sunrise Plaza, Suite 303
Valley Stream, New York 11580-6170

NOV 24 2003

In re Application of	:	
BREED et al.	:	
Application No. 10/174,803	:	DECISION ON PETITION
Filed: June 19, 2002	:	TO MAKE SPECIAL
For: Attorney Docket No. ATI-300	:	

This is a decision on the petition under 37 C.F.R. § 1.102, filed October 20, 2003, to make the above-identified application special. No fee is required for this petition.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in M.P.E.P. § 708.02, Item IV: Applicant's Age.

The petition is GRANTED.

A grantable petition to make special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P. § 708.02, Item IV, must include a showing, as by a birth certificate or the applicant's affidavit or declaration, that the applicant is sixty five (65) years of age or more.

The petition includes a copy of applicant's passport showing that applicant is sixty five (65) years of age or more.

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.

Jose' G. Dees, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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JAN 19 2006

OFFICE OF PETITIONS

In re Application of	:	
Peter J. WILK	:	
Application No. 10/174,815	:	ON PETITION
Filed: June 20, 2002	:	
Attorney Docket No. 7883.0004-05	:	

This is a decision on the petition under 37 CFR 1.181, filed June 3, 2005, to withdraw the holding of abandonment and accept the concurrently filed petition for a five month extension of time.

The petition is **GRANTED**.

The above-identified application was held abandoned for failure to file an Appeal Brief in a timely manner to the Notice of Appeal filed November 4, 2004. A Notice of Abandonment was mailed May 16, 2005.

Petitioner asserts that the Notice of Abandonment mailed May 16, 2005 be withdrawn as it was premature because extensions of time are available under 37 CFR 1.136(a) to extend the period for filing an appeal brief an additional five months.

37 CFR 41.37 and MPEP 1205.01 provide for extensions of time under 37 CFR 1.136(a) to extend the period for filing an appeal brief an additional five months. Accordingly, the Notice of Abandonment mailed May 16, 2005 is withdrawn as premature and the petition for a five-month extension of time has been timely filed and is accepted.

The application is being referred to the Technology Center AU 3762 for further processing.

Application No. 10/174,815

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099 or in his absence, the undersigned at (571) 272-3217.

Brian Hearn
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : June 18, 2007

TO SPE OF : ART UNIT 2629 Amr A. Awad

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/174,821 Patent No.: 7133008 B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Antonio Johnson
Certificates of Correction Branch
703-308-9390 ext. 111

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [X] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

RICHARD HJERPE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

SPE — **Art Unit** 2629

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BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

Mail Date: 05/06/2010

Applicant	: Richard Hans Harvey	: DECISION ON REQUEST FOR
Patent Number	: 7634513	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/174,824	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/20/2002	: 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

AVAYA INC.
307 MIDDLETOWN-LINCROFT ROAD
ROOM 1N-391
LINCROFT NJ 07738

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In re Patent No.	:	
7,170,990	:	
Application No. 10/174,860	:	DECISION GRANTING PETITION
Filing Date: June 18, 2002	:	
Issue Date: January 30, 2007	:	
Attorney Docket No. 4366-83		

This is a decision on the petition under 37 CFR 1.182, filed August 22, 2008, requesting issuance of duplicate Letters of Patent for the above-identified patent.

The petition is **granted**.

The file record discloses that the instant application matured into U.S. Patent No. 7,170,990 on January 30, 2007. Petitioner contends, however, that the patent was never received as a result of an error in the correspondence address applicant provided.

In view of the facts set forth in the petition, it is concluded that the original Letters of Patent was not received. The Office of Data Management 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 Niomi Farmer, Office of Data Management at (703) 308-9250 extension 129.

A copy of this decision is being forwarded to the Office of Data Management for issuance of a duplicate Letter of Patent.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc: Niomi Farmer—Office of Data Management FAX: 571-270-9753

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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MAR 27 2003

Office of the Director
Group 3600

John L. DeAngelis, Jr, Esq.
Beusse, Brownlee, Bowdoin & Wolter, PA
390 N Orange Avenue, Suite 2500
Orlando, FL 32801

Paper No. 4

In re application of
Robert G. Mahaffey
Application No. 10/174,911
Filed: June 19, 2002
For: METHOD FOR PAYMENT OF HEALTHCARE COSTS

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R §1.102(d) to make the above-identified application special that was filed on March 7, 2003.

The petition requests that the above-identified application be made special for the reason that the invention can be easily duplicated by others in the credit card business once it has been introduced.

MPEP 708.02 provides for numerous grounds under which an application may be made special. It is not clear as to which ground the applicant is attempting to satisfy in order to have the application be made special. None of these grounds, however, can be met simply by having a prior art search done, or by including a statement that the invention can be easily duplicated by others.

In view of the above deficiencies, the petition is **DISMISSED**. It is suggested that applicant review MPEP 708.02 to see if applicant can meet any of the criteria necessary for granting special status and to resubmit the necessary fees/evidence in a renewed petition if special status is still desired.

Petitioner's statement that "the invention can be easily duplicated by others in the credit card business" and "the possible duplication of Applicant's invention by another credit card issuing company" leads one to believe that Applicant appears to be concerned with possible infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market; (B) that a rigid comparison of the alleged infringing

device or product with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

SUMMARY: Petition to Make Special **DISMISSED**.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866
(703) 605-0586 (facsimile)

KJD/tpl: 3/21/03

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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William H. McNeill
OSRAM SYLVANIA Inc.
100 Endicott Street
Danvers MA 01923

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DEC 22 2006
OFFICE OF PETITIONS

In re Application of Klinedinst et al.	:	
Application No. 10/174,912	:	Decision on Petition
Filing Date: June 19, 2002	:	
Attorney Docket No. 02-1-828	:	

This is a decision on the petition under 37 CFR 1.181, filed February 7, 2005, to withdraw the holding of abandonment.

The petition is **granted.**

The Office mailed a final Office action on September 5, 2003.

The Office failed to receive a reply to the Office action.

A Notice of Abandonment was mailed January 11, 2005.

The instant petition was filed February 7, 2005.

Petitioner has proven non-receipt of the final Office action. Therefore, the final Office action mailed September 5, 2003, and the Notice of Abandonment are vacated. The holding of abandonment is withdrawn.

Technology Center Art Unit 2879 will be informed of the instant decision. Thereafter, the Technology Center's technical support staff will mail a new final Office action. The time period for responding to the new final Office action will be set to run from the mailing date of the new final Office action.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. None

LEONG C LEI
PMB # 1008
1867 YGNACIO VALLEY ROAD
WALNUT CREEK CA 94598

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OFFICE OF PETITIONS

In re Application of Wen Yao Lo Application No. 10/174,973 Filed: June 20, 2002 Attorney Docket Number: FP8680 Title: ROADSIDE BARRIER MARKER STRUCTURE	:	DECISION ON PETITION UNDER 37 C.F.R. §1.181(A)

This is a decision on the petition filed August 29, 2006, pursuant to 37 C.F.R. §1.181(a), to revive the above-identified application.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed October 4, 2002, 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 January 5, 2003. A notice of abandonment was mailed on April 21, 2003.

With the present petition, Petitioner has asserted that a response was sent via facsimile transmission on January 30, 2003[1], along with a petition for a one-month extension of time so as to make the response timely. Petitioner has included a copy of the response, the associated certificate of facsimile transmission, and a copy of the petition for a one-month extension of time. The electronic records have been reviewed,

1 This appears to be a typographical error, as the certificate of facsimile transmission which is associated with the response in question is dated January 29, 2003.

and neither the response nor the fee have been located in the official file of record.

RELEVANT PORTIONS 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.

37 C.F.R. §1.181(f) sets forth, in toto:

> The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

ANALYSIS

First, 37 C.F.R. §1.181(f) indicates that any petition to withdraw the holding of abandonment 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 notice of abandonment was mailed on April 21, 2003, and the present petition was not filed until more than three years had passed. As such, the present petition is untimely.

Furthermore, it is not clear why the Applicant, the former representative, and the current representative[2] chose to take no action for such a long period of time. It is equally unclear what, after all of this time, prompted Applicant to begin the advancement of the prosecution of this application.

For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Louden, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894).

Similarly, an invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R.§§1.181, 182, 183.

Applicant's lengthy period of inaction does not appear to be consistent with the requirements of punctuality, due diligence, good faith, and the encouragement of reasonable promptness.

Secondly, *assuming arguendo* that the present petition was timely filed, Petitioner has failed to establish timely submission of the response. The certificate of facsimile transmission which Petitioner has provided has been reviewed, and it is noted that it was executed by Applicant's former representative, Wen Yao Lo. It does not appear that a statement from this individual has been supplied. As such, Petitioner has not complied with 37 C.F.R. §1.8(b)(3) in that no statement has been provided which attests on a personal knowledge basis or to the satisfaction of the Director as to the previous timely transmission.

---

2 The Power of Attorney and Correspondence Address which was filed on January 18, 2006 has been entered and made of record. Presuming that he was first retained to represent the applicant in this matter on this date, why did he wait until more than seven months had passed before filing the present petition?

CONCLUSION

Pursuant to the discussion above, the petition is **DISMISSED.**

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. 1.181(a)." This is not a final agency action within the meaning of 5 U.S.C 704.

Thereafter, there will be no further reconsideration of this matter[3].

Petitioner may wish to consider the submission of a petition under 37 C.F.R. §§1.137(a) and/or (b). However, should Petitioner choose to follow this route, he should address the extremely long period of delay, the issues which have been raised above, and why the Office should not find this period of complete inactivity to constitute an intentional, unreasonable, and undue delay in prosecution. No assurance can be made that any remedy will be forthcoming.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[4], hand-delivery[5], or facsimile[6].

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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3 If, on renewed petition, Petitioner fails to satisfy the showings burden required: (a) the resulting decision may be one viewed as final agency action; and (b) provisions for reconsideration, such as those at 37 C.F.R. §1.137(e), will **not** apply to that decision.
4 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
5 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
6 (571) 273-8300- please note this is a central facsimile number.

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OFFICE OF PETITIONS

LEONG C LEI
PMB # 1008
1867 YGNACIO VALLEY ROAD
WALNUT CREEK CA 94598

In re Application of	:	
Wen Yao Lo	:	
Application No. 10/174,973	:	DECISION ON RENEWED PETITION
Filed: June 20, 2002	:	UNDER 37 C.F.R. §1.181(A)
Attorney Docket Number: FP8680	:	
Title: ROADSIDE BARRIER MARKER	:	
STRUCTURE	:	

This is a decision on the renewed petition filed February 6, 2007, pursuant to 37 C.F.R. §1.181(a), to withdraw the holding of abandonment.

The petition is **DENIED**[1].

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed October 4, 2002, 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 January 5, 2003. A notice of abandonment was mailed on April 21, 2003.

The original petition was filed on August 29, 2006, and was dismissed via the mailing of a decision on December 14, 2006.

1 This decision may be regarded as a final agency action within the meaning of 5 U.S.C. §704 for the purposes of seeking judicial review. See MPEP 1002.02.

With the original petition, Petitioner has asserted that a response was sent via facsimile transmission on January 30, 2003, along with a petition for a one-month extension of time so as to make the response timely. Petitioner included a copy of the response, which contained an associated certificate of facsimile transmission dated January 29, 2003 and signed by the inventor, Mr. Lo, and a copy of the petition for a one-month extension of time. The electronic records have been reviewed, and neither the response nor the fee have been located in the official file of record.

RELEVANT PORTIONS 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 (emphasis added). 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.

37 C.F.R. §1.181(f) sets forth, in toto:

> The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely (emphasis added), except as otherwise provided. This two-month period is not extendable.

ANALYSIS

With this renewed petition, Petitioner's representative has indicated that the decision on the original petition contains a typographical error, in that it referred to Mr. Lo as Applicant's "former representative," when in fact,

there was no involvement of a former representative - the inventor prosecuted this application pro se. The Office regrets this error.

First, the decision on the original petition set forth:

> First, 37 C.F.R. §1.181(f) indicates that any petition to withdraw the holding of abandonment 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 notice of abandonment was mailed on April 21, 2003, and the present petition was not filed until more than three years had passed. As such, the present petition is untimely.
>
> Decision on original petition, page 2.

With this renewed petition, it does not appear that Petitioner has addressed this point. As indicated in the decision on original petition, the filing of a petition more than three years subsequent to the mailing of a notice of abandonment is untimely.

Second, with the original petition, Petitioner asserted that a response to the Office actions was timely submitted. As indicated in the decision on original petition, the certificate of facsimile cannot be accepted. The decision on the original petition set forth:

> Secondly, *assuming arguendo* that the present petition was timely filed, Petitioner has failed to establish timely submission of the response. The certificate of facsimile transmission which Petitioner has provided has been reviewed, and it is noted that it was executed by Applicant's former representative (sic), Wen Yao Lo. It does not appear that a statement from this individual has been supplied. As such, Petitioner has not complied with 37 C.F.R. §1.8(b)(3) in that no statement has been provided which attests on a personal knowledge basis or to the satisfaction of the Director as to the previous timely transmission.
>
> Decision on original petition, page 3.

As such, Petitioner was instructed that the certificate of facsimile transmission could not be accepted, since the original petition was incomplete. The requirements of Rule §1.8(b)(3) were not met, in that a statement from the individual who executed the certificate of facsimile transmission was not provided. With this renewed petition, it does not appear that Petitioner has submitted a statement from this individual.

Third, the decision further set forth:

> Furthermore, it is not clear why the Applicant, the former representative (sic), and the current representative chose to take no action for such a long period of time. It is equally

> unclear what, after all of this time, prompted Applicant to begin the advancement of the prosecution of this application.
>
> Decision on original petition, page 3.

With this renewed petition however, Petitioner has not addressed why the Applicant, Mr. Lo, chose to wait so long to take action. Mr. Lo purportedly mailed a response to the Office in January of 2003, and apparently did nothing to further the prosecution of this case until retaining Petitioner three years later.

Regarding the actions of Petitioner, it appears that Petitioner assumed responsibility of this application in January of 2006, and did nothing to further the prosecution of the same until filing the original petition eight months later.

Regarding the question of "what, after all of this time, prompted Applicant to begin the advancement of the prosecution of this application", it does not appear that this issue has been addressed.

Petitioner has asserted that attempts were made to contact the Examiner to determine the status of this application between "March 4, 2005 until May 2, 2005[2]." It is noted that a notice of abandonment was mailed to Applicant on April 21, 2003. Both the original petition and the present renewed petition have been reviewed, and neither appears to contain an assertion that the notice of abandonment was not received. As such, Applicant appears to have received the notice of abandonment. Since the notice informed Applicant that the application "is abandoned in view of Applicant's failure to timely filed a proper reply to the Office letter mailed on 04 October 2002," it is not clear why the status of the application was unknown, and why telephone calls to the Examiner would have been required to determine the status of the application.

Moreover, Petitioner has not stated who made these calls. In the fourth paragraph of this petition, Petitioner has asserted that he assumed prosecution of this case on January 18, 2006. Since it does not appear likely that the Petitioner would have made these calls more than nine months before assuming prosecution of this application, it does not seem likely that these calls were made by him. Perhaps they were made by the Applicant?

Also, Petitioner has submitted a "log" to support his assertion that an unknown entity attempted to contact the

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2 Renewed petition, paragraph 4.

Examiner on numerous occasions. The document consists primarily of characters that appear to be Chinese. The deciding official cannot discern the meanings of these characters, and it does not appear that an English translation has been provided. There are numerous entries on this document, dated March 31 - April 26, which contain the notation "left message." There is no indication what numbers were called, or for whom a message was left. There appears to be one entry, dated "5/2," which consists of several Chinese characters, along with the notation "called Examiner." The notation "left message for Examiner" appears on the document only once, and it has been struck out. As such, this log fails to evince that "since March 4, 2005 until May 2, 2005 numerous phone calls have been made to the Examiner and numerous messages have been left repeatedly, questioning the status of this case[3]."

Finally, it is not clear why it was necessary for an unknown entity to telephone the Examiner to determine the status of this application. *Assuming arguendo* that the notice of abandonment was insufficient to place Applicant on notice that his application had gone abandoned, Petitioner will note that the Office's PAIR system makes available the status of patent applications to all Applicants/their representatives via the Internet.

For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Louden, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894).

Similarly, an invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R.§§1.181, 182, 183.

The lengthy periods of inaction of exhibited by both Applicant and Petitioner are inconsistent with the requirements of punctuality, due diligence, good faith, and the encouragement of reasonable promptness.

---

3 Id.

CONCLUSION

Petitioner may wish to consider the submission of a petition under 37 C.F.R. §§1.137(a) and/or (b). However, should Petitioner choose to follow this route, he should address the extremely long period of delay, the issues which have been raised above, and why the Office should not find this period of complete inactivity to constitute an intentional, unreasonable, and undue delay in prosecution. No assurance can be made that any remedy will be forthcoming.

The prior decision which refused to withdraw the notice of abandonment has have been reconsidered. For the above stated reasons, the notice of abandonment will not be withdrawn.

THERE WILL BE NO FURTHER RECONSIDERATION OF THIS MATTER BY THIS OFFICE.

Telephone inquiries should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Charles Pearson
Director
Office of Petitions
United States Patent and Trademark Office

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OFFICE OF PETITIONS

In re Application of Wen Yao Lo Application No. 10/174,973 Filed: June 20, 2002 Attorney Docket Number: FP8680 Title: ROADSIDE BARRIER MARKER STRUCTURE	:	DECISION ON PETITION UNDER 37 C.F.R. §1.137(B)

This is a decision on the petition, pursuant to 37 C.F.R. § 1.137(b)[1], to revive the above-identified application, filed on October 16, 2007.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed October 4, 2002, 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 January 5, 2003. A notice of abandonment was mailed on April 21, 2003.

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1 A grantable petition pursuant to 37 C.F.R. §1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

An original petition pursuant to 37 C.F.R. § 1.181(a) was filed on August 29, 2006, and was dismissed via the mailing of a decision on December 14, 2006. A renewed petition pursuant to 37 C.F.R. § 1.181(a) was filed on February 6, 2007, and was denied via the mailing of a decision on May 7, 2007.

With the present submission, Petitioner has submitted the petition fee and an amendment. A terminal disclaimer is not required.

Consequently, requirements (1) - (2) of Rule § 1.137(b) have been met. The fourth requirement is not applicable.

Regarding the third requirement, Petitioner has not established that the entire period of delay was unintentional. It is noted that more than three years passed between the mailing of the notice of abandonment and the filing of the original petition pursuant to Rule § 1.181.

The extended inaction of the Applicant, as well as his apparent loss of interest in furthering the prosecution of this matter, appears to be intentional.

A discussion follows.

In order for a petition under 37 C.F.R. § 1.137(b) to be granted, the holder of the rights to the application must have unintentionally allowed the application to go abandoned, and a delay resulting from a deliberately chosen course of action on the part of the applicant is not an "unintentional" delay within the meaning of 37 C.F.R. § 1.137(b).

<u>The periods of delay</u>:

There are three periods to be considered during the evaluation of a petition under 37 C.F.R. § 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 C.F.R. § 1.137(b) to revive the application; and
(3) the delay in filing a grantable petition pursuant to 37 C.F.R. § 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1), (2), or (3).

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 Commissioner to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 C.F.R. § 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 of more than three years in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 C.F.R. § 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. That party, in turn must explain what effort(s) was made to reply to the outstanding Office action and further, why no reply was filed. If no effort was made to reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction).

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).

With both the original and the renewed petitions pursuant to Rule § 1.181, Petitioner asserted that a response was timely submitted to the Office action, but Petitioner failed to include a statement from the individual who executed the certificate of facsimile transmission. As such, Petitioner failed to establish that a response was timely submitted to the Office.

On renewed petition, Petitioner should provide a statement from this individual, pursuant to Rule § 1.8(b)(3).

As to Period (2), where the applicant deliberately chose 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 C.F.R. §1.137(b)[2].

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

2 See MPEP 711.03(c).

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 clear that any protracted delay (here, three 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 the Applicant explaining why he failed to file this petition sooner, and why his apparent loss of interest in prosecuting this application does not constitute intentional delay on his part.

Petitioner must explain why the Applicant, Mr. Lo, chose to wait so long to take action. Mr. Lo purportedly mailed a response to the Office in January of 2003, and apparently did nothing to further the prosecution of this case until retaining Petitioner three years later.

Regarding the actions of Petitioner, it appears that Petitioner assumed responsibility of this application in January of 2006, and did nothing to further the prosecution of the same until filing the original petition pursuant to Rule § 1.181, eight months later. Why did Petitioner not file this petition sooner?

Applicant must further indicate what, after all of this time, prompted Applicant to begin the advancement of the prosecution of this application.

Moreover, when attempting to seek the withdrawal of the holding of abandonment, Petitioner asserted that attempts were made to contact the Examiner to determine the status of this application between "March 4, 2005 until May 2, 2005[3]." It is noted that a notice of abandonment was mailed to Applicant on April 21, 2003. Both the original petition and the present renewed petitions pursuant to Rule § 1.181 have been reviewed, and neither appears to contain an assertion that the notice of abandonment was not received. As such, Applicant appears to have received the notice of abandonment. Since the notice informed Applicant that the application "is abandoned in view of Applicant's failure to timely filed a proper reply to the Office letter mailed on 04 October 2002," it is not clear why the status of the application was

3 Renewed petition pursuant to Rule § 1.181, paragraph 4.

unknown, and why telephone calls to the Examiner would have been required to determine the status of the application.

Furthermore, Petitioner has not indicated who made these calls. In the fourth paragraph of the renewed petition pursuant to Rule § 1.181, Petitioner asserted that he assumed prosecution of this case on January 18, 2006. Since it does not appear likely that the Petitioner would have made these calls more than nine months before assuming prosecution of this application, it does not seem likely that these calls were made by him. Perhaps they were made by the Applicant?

Furthermore, Petitioner submitted a "log" to support his assertion that an unknown entity attempted to contact the Examiner on numerous occasions. The document consists primarily of characters that appear to be Chinese. The deciding official cannot discern the meanings of these characters, and it does not appear that an English translation has been provided. There are numerous entries on this document, dated March 31 - April 26, which contain the notation "left message." There is no indication what numbers were called, or for whom a message was left. There appears to be one entry, dated "5/2," which consists of several Chinese characters, along with the notation "called Examiner." The notation "left message for Examiner" appears on the document only once, and it has been struck out. As such, this log fails to evince that "since March 4, 2005 until May 2, 2005 numerous phone calls have been made to the Examiner and numerous messages have been left repeatedly, questioning the status of this case[4]."

Finally, it is not clear why it was necessary for an unknown entity to telephone the Examiner to determine the status of this application. *Assuming arguendo* that the notice of abandonment was insufficient to place Applicant on notice that his application had gone abandoned, Petitioner will note that the Office's PAIR system makes available the status of patent applications to all Applicants/their representatives via the Internet.

As to Period (3), each of these deficiencies were set forth in the denial of the petition pursuant to Rule § 1.181, yet it does not appear that Petitioner has addressed any of them with the present petition to revive the present application pursuant to Rule § 1.137(b).

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4 Id.

Punctuality and Due Diligence:

For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Louden, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894).

Similarly, an invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R.§§1.181, 182, 183.

The lengthy period of inaction does not appear to be consistent with the requirements of punctuality, due diligence, good faith, and the encouragement of reasonable promptness.

On renewed petition, Applicant will need to address each of these issues, if it is to be established that the entire period of delay was not intentional.

Petitioner is reminded that any statement of facts should be made by one having firsthand knowledge of the facts set forth therein.

Pursuant to the discussion above, the petition pursuant to Rule § 1.137(b) is **DISMISSED**.

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. § 1.137(b)". This is not a final agency action within the meaning of 5 U.S.C 704.

Thereafter, there will be no further reconsideration of this matter[5, 6].

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5 For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Louden, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894). An

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[7], hand-delivery[8], or facsimile[9].

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[10]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R.§§1.181, 182, 183.

6 If, on the second request for reconsideration, Petitioner fails to satisfy the showings burden required: (a) the resulting decision may be one viewed as final agency action; and (b) provisions for reconsideration, such as those at 37 C.F.R. §1.137(e), will **not** apply to that decision.

7 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

8 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

9 (571) 273-8300- please note this is a central facsimile number.

10 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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WALNUT CREEK CA 94598

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OFFICE OF PETITIONS

In re Application of	:	
Wen Yao Lo	:	
Application No. 10/174,973	:	DECISION ON RENEWED PETITION
Filed: June 20, 2002	:	UNDER 37 C.F.R. § 1.137(B)
Attorney Docket Number: FP8680	:	
Title: ROADSIDE BARRIER MARKER	:	
STRUCTURE	:	

This is a decision on the renewed petition filed on January 14, 2008, pursuant to 37 C.F.R. § 1.137(b), to revive this application.

This renewed petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed October 4, 2002, 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 January 5, 2003. A notice of abandonment was mailed on April 21, 2003.

An original petition pursuant to 37 C.F.R. § 1.181(a) was filed on August 29, 2006, and was dismissed via the mailing of a decision on December 14, 2006. A renewed petition pursuant to

37 C.F.R. § 1.181(a) was filed on February 6, 2007, and was denied via the mailing of a decision on May 7, 2007.

An original petition pursuant to 37 C.F.R. § 1.137(b) was filed on October 16, 2007, and was dismissed via the mailing of a decision on November 14, 2007.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With the original petition, Petitioner included the petition fee, an amendment, and the proper statement of unintentional delay.

With this renewed petition, Petitioner has established that the entire period of delay was unintentional. As such, Petitioner has met the first three requirements of 37 C.F.R. § 1.137(b). The fourth requirement is not applicable, as a terminal disclaimer is not required.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received on October 16, 2007 can be processed.

Telephone inquiries regarding *this decision* should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.[1] All other

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1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Anthony Knight
Supervisor
Office of Petitions

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Commissioner for Patents
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NEW YORK, NY 10017

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SEP 15 2004

OFFICE OF PETITIONS

In re Application of :
Cheung, et al. :
Application No. 10/175,050 : ON PETITION
Filed: June 18, 2002 :
Attorney Docket No. 6100-030-999 :

This is a decision on the petition under 37 CFR 1.10, filed September 23, 2003 (Certificate of Facsimile Transmission Date: August 15, 2002), requesting that the above-identified application be accorded a filing date of June 18, 2002, rather than the date of June 20, 2002.

The United States Patent and Trademark Office records indicate that the presently accorded filing date of the above-identified application is June 18, 2002. Therefore, the petition involves a moot issue.

A replacement filing receipt is enclosed for petitioner's records.

Accordingly, the petition is dismissed.

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

Attachment: Replacement Filing Receipt

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Paper No. 7

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APR 1 4 2003

OFFICE OF PETITIONS

In re Application of Erland Wittkotter Application No. 10/175,127 Filed: 19 June, 2002 For: DEVICE FOR THE PASSWORD-PROTECTED HANDLING OF AN ELECTRONIC DOCUMENT	: : : : : : :	DECISION DISMISSING PETITION

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on 20 February, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 365(c) for the benefit of prior-filed international Application No. PCT/EP00/13270, filed on 27 December, 2000.

The petition is **DISMISSED.**

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after 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]

[1]Any nonprovisional application or international application designated the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designated 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 indicating the

(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) 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 19 June, 2002, and was copending with the above-noted, prior-filed international application, at the time of filing, for which priority is claimed. A references to the above-noted, prior filed international application has been included in an amendment to the first sentence of the specification following the title which was filed concurrently with the instant petition under 37 CFR 1.78(a)(3).

The reference to the above-noted, prior-filed international application was not included in the manner specified in 37 CFR 1.78(a)(2)(*i.e.*, in an ADS or in an amendment to the first sentence following the title of the specification) or filed within the period specified in 37 CFR 1.78(a)(2).

A reference to add the above-noted, prior-filed application on page one following the first sentence of the specification has been included in an amendment filed on 20 February, 2003. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior application. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980) where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides 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

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relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

> itself operates to carry forward any disclosure from an earlier application. In re de Seversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to piece new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment deleting the incorporation by reference statement is required.

It is also noted that petitioners have not provided proof that the PCT application to which a claim of benefit is requested designates the United States. Petitioners should provide a copy of the PCT cover sheet or other evidence showing that Application No. PCT/EP00/13270 designates the United States.

Additionally, it is noted that applicants have not petitioned for a claim to priority under 37 CFR 1.55(c) for the prior-filed German application. Should petitioners desire to make such a claim of priority, a petition under 37 CFR 1.55(c) accompanied by the requisite petition fee is required.

In order to expedite consideration, petitioner may wish to submit the substitute amendment by facsimile to the number indicated below and to the attention of Senior Petitions Attorney Douglas I. Wood.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner of Patents
Box DAC
Washington, D.C. 20231

OR (after 1 May, 2003)[2]

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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[2]Effective 1 May, 2003, the U.S. Patent and Trademark Office is changing its address for some mail in preparation for its move to new office space in Alexandria, Virginia beginning at the end of 2003. See 68 Fed. Reg. 14332 (March 25, 2003).

By FAX: (703)308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

Telephone inquires should be directed to Senior Petitions Attorney Douglas I. Wood at 703-308-6918.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

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APR 2 5 2003

OFFICE OF PETITIONS

In re Application of	:
Erland Wittkotter	: DECISION ON PETITION
Application No. 10/175,127	: UNDER 37 CFR 1.78(a)(3)
Filed: 19 June, 2002	:
Attorney Docket No. 047347/259581	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on 18 April, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior-filed PCT Application No. PCT/EP00/13270, filed on 27 December, 2000.

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]

[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

> **(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) 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 19 June, 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. 09/482,745 is granted as of the date of filing the petition.

A corrected Filing Receipt which includes the priority claim to the above-noted, prior filed nonprovisional application, and that the revised projected publication date has not yet been determined, for the present application accompanies this decision on petition.

As authorized, the $1,300.00 fee required by 37 CFR 1.78(a)(3) has been charged to counsel's deposit account.

The application is being forwarded to Technology Center 2100 for processing the amendment filed on 18 April, 2003, and for consideration by the examiner of the claim under 35 U.S.C. § 120

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filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate. (*see* § 1.14).

and 37 CFR 1.78(a)(3) for the benefit of the above-noted, prior filed nonprovisional 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

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FORT COLLINS CO 80527-2400

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OFFICE OF PETITIONS

In re Application of Bruno Richard Application No. 10/175,135 Filed: 06/18/02 Attorney Docket No. B-4656 619920-5	: : : : :	DECISION ON PETITION

This is a decision on the petition filed December 18, 2006, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

On December 28, 2005, the Office mailed a nonfinal Office action, which set a three-month shortened statutory period for reply. Extensions of time were permitted under the provisions of 37 CFR 1.136(a). In the absence of a timely filed reply, the Office mailed a Notice of Abandonment on October 12, 2006.

Petitioners asserted that they submitted a timely reply to the nonfinal Office action, which contained a certificate of mailing dated March 22, 2006. With the present petition, petitioners submitted a copy of the previously mailed reply in the form of an amendment, bearing a certificate of mailing dated March 22, 2006. The certificate of mailing of March 22, 2006, would have rendered the reply timely filed if received in the USPTO. However, the application file does not include the original reply with the certificate of mailing.

Pursuant to 37 CFR 1.8(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.

The petition satisfies the requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to file a timely reply to the nonfinal Office action of December 28, 2005, is withdrawn and the application is restored to pending status. The Office will accept the copy of the reply submitted with the petition on December 18, 2006, in place of the reply mailed on March 22, 2006.

This application is being referred to Technology Center AU 2143 for appropriate action on the amendment submitted on December 18, 2006 (certificate of mailing dated March 22, 2006).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3211. All other questions regarding the status of the application or the examination process should be directed to the Technology Center.

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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Paper No. 12

John S. Egbert
Harrison & Egbert
7th Floor
412 Main Street
Houston TX 77002

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OCT 13 2005

OFFICE OF PETITIONS

In re Application of	:	
Adrian Ballester	:	
Application No. 10/175,326	:	DECISION ON PETITION
Filed: June 20, 2002	:	
Attorney Docket No. 1823-4	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 20, 2005, to revive the above-identified application.

This application became abandoned for failure to reply timely to the final Office Action mailed December 8, 2003, which set a three (3) month shortened statutory period to reply. Accordingly, this application became abandoned on March 9, 2004. A Notice of Abandonment was mailed on August 2, 2004.

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 petition is **granted**.

This application is being forwarded to Technology Center Art Unit 3611.

Telephone inquiries should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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SEP 21 2009

OFFICE OF PETITIONS

In re Application of Currivan et al. :
Application No. 10/175,330 :
Filing Date: June 20, 2002 :
Attorney Docket No. 1875.1620002 :

Decision on Petitions

This is a decision in response to the June 19, 2009 petition under 37 C.F.R. § 1.48(a) and the June 19, 2009 petition under 37 CFR 1.183, requesting waiver of 37 CFR 1.48(a)(3), which requires submission of an oath or declaration signed by the actual inventors. The petition under 37 CFR 1.183 was supplemented on June 23, 2009 when petitioners filed a supplemental declaration executed by James Harrell and a request for withdrawal of the previously filed Rule 183 petition.

The petition under 37 CFR 1.48(a) is **dismissed**.

The petition under 37 CFR 1.183 to waive 37 CFR 1.48(a)(3) is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. FAILURE TO TIMELY RENEW THE PETITION WILL RESULT IN ABANDONMENT. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR § 1.48.

On June 23, 2009, petitioners filed a request to withdraw the petition under 37 CFR 1.183. The petition is hereby dismissed. Since the request to withdraw the petition was filed prior to the Office considering the merits of the petition, the Office has credited the $400 petition fee back to petitioners' credit card.

A declaration, filed on October 23, 2002, listed 9 joint inventors: Bruce J. Currivan, Thomas J. Kolze, Daniel H. Howard, Thomas J. Quigley, Nambi Seshadri, Thomas L. Johnson, Scott Cummings, James Harrell, and Fred Bunn. Petitioners desire to change the inventive entity to 11 joint inventors: Bruce J. Currivan, Thomas J. Kolze, Daniel H. Howard, Thomas J. Quigley, Nambi Seshadri, Thomas L. Johnson, Scott Cummings, James Harrell, Fred Bunn, Joel Danzig, and Stephen Hughey.

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by: (1) a petition setting forth the desired change in inventorship, (2) including a statement from each person being added and from each person being deleted as an inventor that the error occurred without deceptive intention on his or her part; (3) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47; (4) the fee set forth in 37 CFR 1.17 (i); and (5) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

The petitions of record lack compliance with item (3).

Petitioners have not submitted an acceptable declaration. The declaration contains a noninitialed, nondated alterations to information for James Harrell. 37 CFR 1.52(c) states that "[a]ny interlineation, erasure, cancellation or other alteration of the application papers filed should be made on or before the signing of the accompanying oath or declaration pursuant to 1.63...." This includes the oath or declaration. The Office will not consider whether noninitialed and or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration.

Fortunately, the deficiencies or inaccuracies relate to a signing inventor. Thus, pursuant to 37 CFR 1.67(a)(2), Inventor Harrell may correct his information in a supplemental declaration identifying the entire inventive entity and their information, but signed only by him. Another option would be to submit a complete ADS.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Any questions 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

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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1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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OCT 13 2009

OFFICE OF PETITIONS

Decision on Petitions

In re Application of Currivan et al. :
Application No. 10/175,330 :
Filing Date: June 20, 2002 :
Attorney Docket No. 1875.1620002 :

This is a decision in response to the renewed petition under 37 C.F.R. § 1.48(a), filed October 1, 2009, to add Joel Danzig and Stephen Hughey as joint inventors.

The petition under 37 CFR 1.48(a) is **granted**.

A declaration, filed on October 23, 2002, listed 9 joint inventors: Bruce J. Currivan, Thomas J. Kolze, Daniel H. Howard, Thomas J. Quigley, Nambi Seshadri, Thomas L. Johnson, Scott Cummings, James Harrell, and Fred Bunn. Petitioners desire to change the inventive entity to 11 joint inventors: Bruce J. Currivan, Thomas J. Kolze, Daniel H. Howard, Thomas J. Quigley, Nambi Seshadri, Thomas L. Johnson, Scott Cummings, James Harrell, Fred Bunn, Joel Danzig, and Stephen Hughey.

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by: (1) a petition setting forth the desired change in inventorship, (2) including a statement from each person being added and from each person being deleted as an inventor that the error occurred without deceptive intention on his or her part; (3) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47; (4) the fee set forth in 37 CFR 1.17 (i); and (5) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

The petitions of record comply with the above-listed requirements and is therefore, granted. Please find enclosed a corrected filing receipt.

After the mailing of this decision, the application will be referred to the Office of Data Management for processing into a patent.

Any questions 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

Enclosure: corrected filing receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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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
10/175,330	06/20/2002	2112	2430	1875.1620002	48	12

CONFIRMATION NO. 6191

CORRECTED FILING RECEIPT

26111
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

OC000000038116358

Date Mailed: 10/02/2009

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)

Bruce J. Currivan, Irvine, CA;
Thomas J. Kolze, Phoenix, AZ;
Daniel H. Howard, Atlanta, GA;
Tom Quigley, Franklin, NC;
Nambi Seshadri, Irvine, CA;
Thomas L. Johnson, Gainesville, GA;
Scott Cummings, Suwanee, GA;
Jay Harrell, Atlanta, GA;
Fred Bunn, Atlanta, GA;
Joel Danzig, Alpharetta, GA;
Stephen Hughley, Sugar Hill, GA;

Assignment For Published Patent Application

Broadcom Corporation

Power of Attorney: The patent practitioners associated with Customer Number 26111

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/299,768 06/22/2001
and claims benefit of 60/308,101 07/30/2001

Foreign Applications

If Required, Foreign Filing License Granted: 07/24/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/175,330**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

SYSTEM , METHOD AND COMPUTER PROGRAM PRODUCT FOR MITIGATING BURST NOISE IN A COMMUNICATIONS SYSTEM

Preliminary Class

714

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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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Bruce J. Currivan	: DECISION ON REQUEST FOR
Patent Number	: 7631242	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/175,330	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/20/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1991** 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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APR 24 2007

OFFICE OF PETITIONS

DLA PIPER RUDNICK GRAY CARY US, LLP
2000 UNIVERSITY AVENUE
E. PALO ALTO CA 94303-2248

In re Application of	:	
Frank Zisowski	:	
Application No. 10/175,343	:	DECISION GRANTING PETITION
Filed: June 19, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 1020843-991200	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 8, 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 and publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance of August 10, 2006, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Patent Publication.

Karen Creasy

Karen Creasy
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. 3

LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE WA 99201

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NOV 2 0 2002

OFFICE OF PETITIONS

In re Application of	:	
Fries, Shield, Pezzee, Peechara, and Fleming	:	
Application No.: 10/175,353	:	
Filed: June 18, 2002	:	DECISION ACCORDING
Attorney Docket No: MS1-1143US	:	STATUS UNDER
For: E-COMMERCE FACILITATION FOR BROADCAST	:	RULE 47(a)
SERVICES	:	

This is in response to the petition under 37 CFR 1.47(a), filed August 27, 2002.

The petition is **GRANTED**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

The above-identified application was filed on June 18, 2002, without an executed oath or declaration. Accordingly, a "Notice to File Missing Parts of Nonprovisional Application ("Notice") was mailed on July 22, 2002, requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration. The Notice also required the filing and claim fees to be paid.

By the instant petition, petitioner has established that, after having been presented with the complete application papers, inventor Fleming has refused join the prosecution of the above-cited application. 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.

Deposit account 12-0769 will be assessed $130.00 for the instant petition fee.

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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NOV 2 0 2002

OFFICE OF PETITIONS

Michael K. Fleming
299 Castro Street
San Francisco, California 94114

In re Application of Fries, Shield, Pezzee, Peechara, and Fleming Application No. 10/175,353 Filed: June 18, 2002 Attorney Docket Number: MS-1143US For: E-COMMERCE FACILITATION FOR BRAODCAST SERVICES	: : : : : : :	LETTER

Dear Mr. Fleming:

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 the a joint inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Kenya A. McLaughlin at (703) 305-0010. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Lee & Hayes PLLC
421 W. Riverside Avenue, Suite 500
Spokane, WA 99201

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROBERT D. VARITZ, P.C.
4915 SE 33RD PLACE
PORTLAND OR 97202

MAILED

FEB 01 2010

OFFICE OF PETITIONS

In re Application of :
Peter M. Galen, et al. :
Application No. 10/175,354 : NOTICE
Patent No. 7,065,397 :
Filed: June 18, 2002 :
Attorney Docket No. PAN 329

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-2991.

Terri Johnson

Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE - 10TH FLOOR
NEW YORK NY 10151

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MAY 0 9 2006
OFFICE OF PETITIONS

In re Application of	:	
Samuel Asangbeng et al	:	
Application No. 10/175,368	:	ON PETITION
Filed: June 18, 2002	:	
Attorney Docket No. 450110-04040	:	

This is a decision on the petition, filed May 8, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 1, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

The examiner of Technology Center AU 2611 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

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

MARSHALL, GERSTEIN & BORUN (MOTOROLA)
233 SOUTH WACKER DRIVE
SUITE 6300
CHICAGO, IL 60606-6402

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OCT 0 8 2002

OFFICE OF PETITIONS

In re Application of :
Michael A. Seibel :
Application No. 10/175,371 : DECISION ON PETITION
Filed: June 19, 2002 :
Attorney Docket No. 29505/CS11315 :

This is a decision on the "Petition to Request a Change to the Filing Date" filed September 30, 2002, requesting that the above-identified application be accorded a filing date of June 19, 2002, rather than the presently accorded filing date of June 18, 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 June 19, 2002, under Express Mail mailing label No. EU424299758US, pursuant to §1.10(a). However, the USPS incorrectly entered a "date-in" of June 18, 2002, and thus, the Office incorrectly accorded the application a filing date of June 18, 2002. Petitioner indicates 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. EU424299758US.

---

[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, the transmittal submitted on petition is a true copy of that present in the application file and presently accorded a filing date of June 18, 2002; and both bear the "Express Mail" mailing label No. EU424299758US. 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 June 18, 2002. However, the official USPS track/confirm record submitted by petitioner shows that the "Express Mail" package mailed under No. EL916648702US was accepted "June 19, 2002, 5:30 pm, CHICAGO, IL 60604." The USPTO's USPS Express Mail Information Database (copy of printout enclosed) also shows that this package was accepted at 5:30 pm on June 19, 2002.

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 June 19, 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

Encl: USPTO's USPS Express Mail Information Database printout

UNITED STATES 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 11-04

RICHARD L. SAMPSON
SAMPSON & ASSOCIATES, P.C.
50 CONGRESS STREET
BOSTON MA 02109

COPY MAILED

DEC 0 1 2004

OFFICE OF PETITIONS

In re Application of	:	
Martin L. Culpepper	:	
Application No. 10/175,415	:	ON PETITION
Filed: 19 June, 2002	:	
Atty Docket 9557/1129.008	:	

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on 8 October, 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

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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)).

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 on 11 July, 2004, for failure to file a proper response to the final Office action mailed on 10 February, 2004, which set a three (3) month shortened statutory period for reply. On 14 July, 2004 (certificate of mailing date 12 July, 2004), a two (2) month extension of time was filed, along with an amendment after final rejection. The amendment was found not to place the application in *prima facie* condition for allowance, however, and an Advisory Action notifying applicant of such was mailed on 29 September, 2004. Notice of Abandonment was mailed on 6 October, 2004.

On 8 October, 2004, petitioner filed the present petition, and a Request for Continued Examination (RCE).

The petition filed on 8 October, 2004, must be dismissed because the RCE is not accompanied by a submission as required by 37 CFR 1.114. In this regard, it is noted that the RCE request filed on 8 October, 2004, indicates that an amendment was filed therewith. However, no amendment could be located among the papers received with the petition and RCE filed on 8 October, 2004.

Petitioners should submit, or identify, if previously filed, the submission required under 37 CFR 1.114 with any renewed petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petition
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW 12-04

RICHARD L. SAMPSON
SAMPSON & ASSOCIATES, P.C.
50 CONGRESS STREET
BOSTON MA 02109

COPY MAILED

DEC 10 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Martin L. Culpepper	:
Application No. 10/175,415	:
Filed: 19 June, 2002	:
Atty Docket 9557/1129.008	:

This is a decision on the renewed petition under 37 CFR 1.137(b),[1] filed on 3 December, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 11 July, 2004, for failure to file a proper response to the final Office action mailed on 10

---

[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)).

February, 2004, which set a three (3) month shortened statutory period for reply. On 14 July, 2004 (certificate of mailing date 12 July, 2004), a two (2) month extension of time was filed, along with an amendment after final rejection. The amendment was found not to place the application in *prima facie* condition for allowance, however, and an Advisory Action notifying applicant of such was mailed on 29 September, 2004. Notice of Abandonment was mailed on 6 October, 2004. The petition filed on 8 October, 2004, was dismissed on 1 December, 2004.

Petitioners have now filed an amendment, identified as the submission required with the RCE.

The application is being referred to Technology Center 3600 for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SPINE MP
LERNER, DAVID, et al.
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

COPY MAILED

SEP 03 2008

OFFICE OF PETITIONS

In re Application of	:
Ralph et al.	:
Application No. 10/175,417	: DECISION ON PETITION
Filed: June 19, 2002	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. F-213	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 11, 2008, 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 in the first sentence of the specification on page one following the title 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).

Additionally, the Application Data Sheet (ADS) and the amendment to the specification, both filed March 11, 2008, do not set forth the same priority claims. As a result, there is confusion as to exactly which applications petitioner desires to claim priority. Also, lines 17-20 of the amendment to the specification are not clear in that they do not particularly specify the applications relied upon in the priority claim.

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and an ADS or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required. If the changes are made by an ADS, then the priority claim in the first sentence of the specification is not necessary and must be canceled. Furthermore, any supplemental ADS must be signed. *See* 37 CFR 1.67(a)(4).

Also, in regard to the statement of unintentional delay, the rule at 37 CFR § 1.78(a)(3) requires a statement that the entire delay between the date the claim was due under 37 CFR § 1.78(a)(2)(ii) and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §1.78(a)(3). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Christopher Bottorff at (571) 272-6692.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SPINE MP
LERNER, DAVID, et al.
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

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JAN 27 2009

OFFICE OF PETITIONS

In re Application of
Ralph et al.
Application No. 10/175,417
Filed: June 19, 2002
Attorney Docket No. F-213

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed October 31, 2008, 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.

In regard to the required reference, the specification was amended to properly include the reference to the prior-filed applications.

In regard to the statement of delay, the rule at 37 CFR § 1.78(a)(3) requires a statement that the entire delay between the date the claim was due under 37 CFR § 1.78(a)(2)(ii) and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the

required language, the statement is being construed as the statement required by 37 CFR §1.78(a)(3). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

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 mailed October 3, 2008 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, was mailed October 3, 2008. This corrected filing receipt satisfies the request for corrected filing receipt filed first on September 24, 2008 and again on November 13, 2008. While the corrected Filing Receipt mailed October 3, 2008 does not use the identical language as the priority data presented in the requests, the corrected Filing Receipt recites the same priority chain as the requests but in fewer words.

Any inquiries concerning this decision may be directed to Christopher Bottorff at (571) 272-6692. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

David Bucci
Petitions Examiner
Office of Petitions

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6721992	2004-04-20	10175436	2002-06-19	216-08

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	/Antranig Baronian/	Date (YYYY-MM-DD)	2008-07-24
Name	Antranig Baronian	Registration Number	58501

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. 6721992
Issue Date: April 20,2004
Application No. 10175436
Filed: June 19,2002
Attorney Docket No. 1053

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed July 24,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 24,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
10/175,515	06/19/2002	Alan Cisar	LYNN/0148	5214

24945 7590 05/17/2006

STREETS & STEELE
13831 NORTHWEST FREEWAY
SUITE 355
HOUSTON, TX 77040

EXAMINER
JONES, DAMERON LEVEST

ART UNIT	PAPER NUMBER
1618	

DATE MAILED: 05/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.

EXAMINER

ART UNIT	PAPER

20060515

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

See attached letter.

Michael G. Hartley
SPE
Art Unit: 1618

UNITED STATES
PATENT AND
TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
Alexandria, VA. 22313-1450
WWW.USPTO.GOV

Paper No.

Date: August 27, 2004
Application No. 10/175,515
Filing Date: June 79, 2002

ON PETITION
37 CFR 1.48(a)

Receipt is acknowledged of the petitions filed October 18, , under 37 CFR 1.48(a) for correction of inventorship. The petition has been **GRANTED**.

In view of the papers filed, it has been found that the inventor, Paul Sylvester was left off as an inventor without deceptive intention. Accordingly, this application has been changed by adding the name Paul Sylvester as an inventor in the application. The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of the file jacket and PTO PALM data to reflect the inventorship as corrected.

MICHAEL G. HARTLEY
SUPERVISORY PATENT EXAMINER

for

Dameron Jones
United States Patent and Trademark Office
Primary Examiner
Art Unit 1616
Remsen 4A51
571-272-0617

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET NW, SUITE 300
WASHINGTON, DC 20001-5303

MAILED

JAN 29 2010

OFFICE OF PETITIONS

In re Application of	:	
Henrik PEDERSEN, et *al.*	:	
Application No. 10/175,539	:	NOTICE UNDER 37 CFR 1.28(g)
Filed: June 20, 2002	:	
Attorney Docket No. **PEDERSEN=2A**	:	

This is in response to the paper filed August 19, 2009 under 37 CFR 1.28(g)(2) requesting that status as a Small Entity be removed.

In accordance with the August 19, 2009 request, status as a Small Entity has been removed.

This file is being forwarded to the Office of Data Management.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON DC 20001-5303

MAILED

APR 23 2010

OFFICE OF PETITIONS

Applicant:
Pedersen et al.

Application No. 10/175,539
Filed: June 20, 2002
Attorney Docket No.
PEDERSEM=2A

ON PETITION
ON REQUEST FOR RECONSIDERATION
OF PATENT TERM ADJUSTMENT

This is a decision on the 1) Petition under 37 C.F.R. 1.183, requesting that the Office suspend the rules and consider on the merits a Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(B) filed on September 2, 2008.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the

initial determination of patent term adjustment and a projected issuance date of the patent is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).
The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Telephone inquiries specific to this decision should be directed to Maria Nuzzolillo, Legal Advisor, at (571) 272-8150, or the undersigned at 571-272-7757.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
12400 WILSHIRE BLVD.
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

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APR 21 2005

OFFICE OF PETITIONS

In re Application of	:	
Ana R. Londergran et al	:	
Application No. 10/175,556	:	ON PETITION
Filed: June 17, 2002	:	
Attorney Docket No. 2344-746	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 8, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed December 6, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 7, 2005.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being forwarded to the Publishing Division.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 4

ARTHUR G. YEAGER
SUITE 1305
112 WEST ADAMS STREET
JACKSONVILLE, FL 32202-3853

COPY MAILED

AUG 2 6 2002

OFFICE OF PETITIONS

In re Application of	:	
Timo U. Niitti et al	:	
Application No. 10/175,573	:	NOTICE
Filed: June 19, 2002	:	
Attorney Docket No. D-7376	:	

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 1723.

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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SUITE 1305
112 WEST ADAMS STREET
JACKSONVILLE, FL 32202-3853

COPY MAILED

SEP 0 6 2005

OFFICE OF PETITIONS

In re Application of	:	
Timo U. Niitti	:	
Application No. 10/175,573	:	ON PETITION
Filed: June 19, 2002	:	
Attorney Docket No. D-7376	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 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/publication fee in a timely manner in reply to the Notice of Allowance mailed April 6, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on July 7, 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 Wan Laymon at (571) 272-3220.

This matter is being referred to Publishing Division.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: ARTHUR G. YEAGER
245-1 EAST ADAMS STREET
JACKSONVILLE, FL 32202-3336

UNITED STATES PATENT AND TRADEMARK OFFICE

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2350 EAST EL SEGUNDO BOULEVARD
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EL SEGUNDO CA 90245

COPY MAILED

MAY 1 3 2008

OFFICE OF PETITIONS

In re Application of	:	
Hseih S. Hou	:	
Application No. 10/175594	:	
Filing or 371(c) Date: 06/19/2002	:	ON PETITION
Attorney Docket Number: D-448	:	

This is a decision on the "Petition to Revive," filed August 15, 2006. Applicant petitions to revive the application "under 37 CFR et seq., including 37 CFR 1.137(a), that failure was unavoidable, and under 1.181, and fees under 1.17(1), and any other section deem appropriate." Petition at p.2. The delay in treating this petition is regretted.

This Petition under 37 CFR 1.137(a) is **dismissed**.

This Petition under 37 CFR 1.181 is **dismissed**

This Petition under 37 CFR 1.137(b) 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 "Request for Reconsideration of Petition under [insert the applicable code section]". This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

This application became abandoned for failure to timely pay the issue and publication fees on or before May 14, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed February 13, 2006. Accordingly, the date of abandonment of this application is February 14, 2006.

A Notice of Allowance and Fee(s) Due, were mailed September 13, 2005. Applicant filed an Amendment and a conditional Request for Continued Examination ("RCE"), and fee on November 9, 2005. On December 12, 2005, Applicant submitted the issue and publication fees.

The RCE was entered and a Notice of Allowance and Issue Fee Due and Notice of Allowability were mailed February 13, 2006. No response to the Notice was received.

The petition under 37 CFR 1.137(a)

Applicant files the present petition and avers that the Issue and Publication fees were paid on December 12, 2005.

A Grantable Petition Under 37 CFR 1.137(a)

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (**1**) the required reply (unless previously filed), which may met by the filing of a notice of appeal and the requisite fee; a continuing application; an amendment or request for reconsideration which *prima facie* places the application in condition for allowance, or a first or second submission under 37 CFR 1.129(a) if the application has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 USC 120, 121 and 365(c); (**2**) the petition fee as set forth in 37 CFR 1.17(l); (**3**) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (**4**) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

Applicant lacks items (**1**) and (**3**) as set forth above.

Applicable Law, Rules and MPEP

As to item (**1**), Applicant failed to return the PTOL-85B as required by the Notice of Allowance and Issue Fee Due, mailed February 13, 2006.

As to item (**3**), Applicant must provide a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable.

In order to determine whether the delay was unavoidable, the courts have adopted a "reasonably prudent person" standard. The courts have provided that:

> [t]he word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a

> failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

> "The critical phrase 'unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable' has remained unchanged since first enacted in 1861." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The standard for "unavoidable" delay for reinstating a patent is the same as the unavoidable standard for reviving an application. See Ray v. Lehman, 55 F.3d 606, 608-609, 34 U.S.P.Q.2d (BNA) 1786, 1787 (Fed. Cir. 1995) (citing In re patent No. 4,409,763, 7 U.S.P.Q.2d (BNA) 1798, 1800 (Comm'r Pat. 1990; Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The court in In re Mattullath, accepted the standard which had been proposed by Commissioner Hall which "requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business." In re Mattullath, 38 App. D.C. 497, 514-515 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)). However, "The question of whether an applicant's delay in prosecuting an application was unavoidable [will] be decided on a case-by-case basis, taking all of the facts and circumstances into account."[1] Nonawareness of the content of, or a misunderstanding of, PTO statutes, PTO rules, the MPEP, or Official Gazette notices, does not constitute unavoidable delay.[2]

The statute requires a "showing" by petitioner. Therefore, petitioner has the burden of proof. The decision will be based solely on the written, administrative record in existence. 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.

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[1] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

[2] See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D. D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay)); Vincent v. Mossinghoff, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D. D.C. 1985) (Plaintiffs, through their counsel's actions, **or their own**, must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

Analysis

Applicant filed a conditional RCE on November 9, 2005. The MPEP 706.07(h), Treatment of Conditional RCE, states:

> If a submission is accompanied by a "conditional" RCE and payment of the RCE fee under 37 CFR 1.17(e) (i.e., an authorization to charge the 37 CFR 1.17(e) fee to a deposit account in the event that the submission would not otherwise be entered), the Office will treat the "conditional" RCE and payment as if an RCE and payment of the fee set forth in 37 CFR 1.17(e) had been filed.

MPEP 711.03

Because Applicant filed the RCE, fee and submission after allowance, but prior to the payment of the issue fee, prosecution was re-opened. No petition to withdraw the application from issue was required. The MPEP provides:

> The phrase "withdraw the finality of any Office action" in 37 CFR 1.114(d) includes the withdrawal of the finality of a final rejection, as well as the closing of prosecution by an Office action under Ex parte Quayle, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935), <u>or notice of allowance under 35 U.S.C. 151 (or notice of allowability)</u>. <u>Therefore, if an applicant files an RCE with the fee set forth in 37 CFR 1.17(e) and a submission in an application which has been allowed, prosecution will be reopened</u>. MPEP 706.07(h)(IX). (Emphasis supplied).

Thereafter, this Office issued a Notice of Allowance and Issue Fee Due and Notice of Allowability mailed February 13, 2006. The Notice stated, in relevant part, "The PTOL-85B (or an equivalent) <u>must be returned within this period even if no fee is due or the application will be regarded as abandoned</u>." (Emphasis supplied).

35 U.S.C. § 133, Time for prosecuting application, states:

> Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable.

Further to this, 37 CFR § 1.135, Abandonment for failure to reply within time period, states

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.

Here, Applicant failed to return the PTOL-85B as required by the Notice of Allowance and Issue Fee Due, mailed February 13, 2006. Accordingly, the application was properly held abandoned.

Additionally, Applicant's assertion, that the issue fee was paid, does not address the failure to return the PTOL-85B as required by the Notice of Allowance and Issue Fee Due, mailed February 13, 2006. As such, Applicant has failed to demonstrate whether Applicant's failure to return the PTOL-85B as required by the Notice of Allowance and Issue Fee Due, was unavoidable.

The petition to revive the application unde4 37 CFR 1.137(a) is dismissed.

The petition under 37 CFR 1.181

The Manual of Patent Examining Procedure provides the following:

> [w]here an applicant contends that the application is not in fact abandoned (e.g., there is disagreement as to the sufficiency of the reply, or as to controlling dates), a petition under 37 CFR 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action, and such petition does not require a fee. Where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment), a petition under 37 CFR 1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application.

MPEP 711.03(c).

Here, as discussed above, the application became abandoned because Applicant failed to return the PTOL-85B as required by the Notice of Allowance and Issue Fee Due. As such, there is no dispute as to the status of the application. The application is abandoned. A petition to revive the application (and fee) is the appropriate course of action.

The petition under 37 CFR 1.137(b)

Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable."

A Grantable Petition Under 37 CFR 1.137(b)

A grantable petition pursuant to this paragraph must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director

may require additional information where there is a question whether the delay was unintentional; and
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The issue fee

As to item (1), Applicant failed to return the PTOL-85B as required by the Notice of Allowance and Issue Fee Due. A copy of the Notice of Allowance and Issue Fee Due, PTOL-85B, and Notice of Allowability are enclosed.

The petition is dismissed without prejudice. Applicant should file a request for reconsideration of petition and include the PTOL-85B.

Petitioner's deposit account has been charged the fee for a petition under 37 CFR 1.137(a) and 1.137(b), as authorized in the present petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232. All other inquiries should be directed to the applicable Office.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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AUG 28 2008

OFFICE OF PETITIONS

In re Application of :
Hseih S. Hou :
Application No. 10/175594 :
Filing or 371(c) Date: 06/19/2002 : ON PETITION
Attorney Docket Number: D-448 :

This is a decision on the "Request for Reconsideration of Petition to Revive and Issue," filed June 12, 2008. Applicant petitions to revive the application "under 37 CFR (b) that the abandonment was unintentional, and any other section deem appropriate." Petition at p.2.

This Petition under 37 CFR 1.137(b) is **granted**.

Background

This application became abandoned for failure to timely pay the issue and publication fees on or before May 14, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed February 13, 2006. Accordingly, the date of abandonment of this application is February 14, 2006.

A Notice of Allowance and Fee(s) Due, were mailed September 13, 2005. Applicant filed an Amendment and a conditional Request for Continued Examination ("RCE"), and fee on November 9, 2005. On December 12, 2005, Applicant submitted the issue and publication fees.

The RCE was entered and a Notice of Allowance and Issue Fee Due and Notice of Allowability were mailed February 13, 2006. No response to the Notices was received.

The present request for reconsideration of petition under 37 CFR 1.137(b)

Applicant files the present request for reconsideration and includes the PTOL-85B as required by the Notice of Allowance and Issue Fee Due, mailed February 13, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply; (2) the petition fee; and (3) a proper statement of unintentional delay[1].

It is also noted that Applicant has included a terminal disclaimer with the present request for reconsideration. Applicant is advised that a terminal disclaimer is only required as a condition for revival of an application in utility or plant applications filed before June 8, 1995. See, 37 CFR 1.137(d). Applicant may petition to withdraw the Terminal Disclaimer filed with the petition, under 37 CFR 1.182. See, MPEP 1490(VII).

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

This application is being referred to the Office of Data Management for processing into a patent.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

[1] 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." 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.

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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#7

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AUG 0 7 2003

Office of the Director
Group 3600

Harness, Dickey & Pierce, P.L.C.
P.O. Box 828
Bloomfield Hills, MI 48303

In re Application of
Robert D. Gregg III et al.
Application No. 10/175,612
Filed: June 20, 2002
For: SPANWISE TAILORING OF A TRAILING EDGE WEDGE TO A WING

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to applicants' petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office on May 14, 2003.

The petition is **DISMISSED**.

A review of the file record indicates that the application was held abandoned for failure to timely respond to the Office action dated October 4, 2002, and a Notice to that effect was mailed on May 5, 2003.

Any petition to withdraw the holding of abandonment based upon a Certificate of Mailing must include the following requirements:

(1) A copy of a response bearing a signed Certificate of Mailing which includes the date of signing; and

(2) A statement attesting to the personal knowledge of mailing the response on the date indicated on the Certificate of Mailing (see 37 CFR 1.8 and MPEP 512).

The petition includes a statement from Joshua B. Dobrowitsky attesting to the personal knowledge of mailing the response on the date indicated on the certificate. However, the statement under 37 CFR 1.8(b)(3) must be provided by the person who signed the certificate, i.e., Kyna U. Pittman.

Any petition to withdraw the holding of abandonment based upon a Returned Post Card must include the following requirements:

(1) A copy of the response and

(2) A copy of the postcard identifying the response including a USPTO Mail Room receipt date.

The returned postcard included in the petition bear a USPTO Mail Room receipt date of January 7, 2003. This is unacceptable evidence of a timely filed response since the three-month shortened statutory period for response expired on January 4, 2003.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.181."

Kenneth J. Dorner, Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866
Facsimile No.: (703) 605-0586

KJD/tpl: 7/21/03

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

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P.O. BOX 828
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In re Application of
Robert D. Gregg III et al.
Application No. 10/175,612
Filed: June 20, 2002
For: SPANWISE TAILORING OF A TRAILING EDGE WEDGE TO A WING

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

The renewed petition faxed August 18, 2003 has been treated as a Petition to Withdrawal the Holding of Abandonment supplementing the papers filed May 14, 2003, 2003

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 January 2, 2003. and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the examiner for appropriate action.

en/12/19/03

Randolph A. Reese
Special Programs Examiner
Group 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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#11

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MAILED
JUN 1 2004
Office of the Director
Group 3600

In re Application of
Alfred Eckert et al.
Application No. 10/175,614
Filed: September 17, 2002
For: PROCESS AND A DEVICE FOR DETERMINING THE DRIVING TORQUE OF A VEHICLE

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to applicant's petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office on February 17, 2004.

The petition is **GRANTED** in view of the following evidence of timely filing :

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____ which identifies the application by serial number and the type of Response that was filed on that date.

☒ Certificate of Mailing/Transmission signed on May 28, 2003 and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

KJD/mjz: 5/11/04

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/175,644	06/20/2002	Dahlia Minc-Golomb	3163.00003

CONFIRMATION NO. 1796

OC000000008685625

KOHN & ASSOCIATES
Suite 410
30500 Northwestern Highway
Farmington Hills, MI 48334

Date Mailed: 08/26/2002

RESPONSE TO REQUEST FOR CORRECTED FILING RECEIPT

Claims, Fees, and Inventors

In response to your request for a corrected Filing Receipt, the Office is unable to comply with the request because:

- [ ] The total number of claims appearing on the Filing Receipt does not include multiple dependent claims. The total fee appearing on the Filing Receipt includes the cost of multiple dependent claims that were present at the time the application was filed.
- [ ] The filing fee is correct. It may include additional claims fees and/or the surcharge under 37 CFR 1.16(e) for filing an oath/declaration or basic filing fee after the application filing date; or it may not reflect fees refunded to the applicant that were paid by mistake.
- [X] The number of claims reflected on the filing receipt is correct. Upon review of the claims, it was found that there was a miscalculation by the applicant. An amendment may be necessary to correct the problem.
- [ ] The filing fee reflected on the filing receipt is correct. Applicant may have miscalculated the fees due.
- [ ] Applicant calculated fees as other than small entity; however, applicant asserted small entity status in the application. Therefore, fees were applied as small entity and the remainder was refunded to the applicant.
- [ ] The difference between the fees paid and the fees due was refunded to the applicant and will not be shown on the filing receipt.
- [ ] The inventor information may be truncated if the family name consists of more than 50 characters (letters and spaces combined) and if the given name consists of more than 50 characters (letters and spaces combined).

___ The inventor's residence allows for up to 40 characters (letters and spaces combined).

- [ ]
- [ ] The inventor's residence will only include the city and state for U.S. residences or city and country for residences outside the U.S. (See MPEP 605.02).
- [ ] A petition to correct the inventorship is needed to make this change. See 37 CFR 1.48. For non-provisional applications, the petition should be directed to the Director of the examining group assigned to your application.
- [ ] Changes made after submission of an executed declaration to the inventor information other than correction of typographical errors must be submitted in the form of a substitute declaration. Change of inventorship requires a petition under 37 CFR 1.48.
- [ ] The number of drawings shown on the filing receipt reflects the number of drawing sheets submitted and is not necessarily equal to the number of figures submitted.
- [ ] The correspondence address was captured as directed by applicant on filing. If you wish correspondence to be directed otherwise, please submit a request for a change of address.
- [ ] The docket number allows a maximum of 25 characters.
- [ ] The person signing on behalf of the deceased inventor is reflected on the Filing Receipt as the legal representative.
- [ ] The filing date of a parent application cannot be changed by this request. A petition to correct the filing date in the parent application is required.

Customer Service Center
Office of Initial Patent Examination
(703) 308-1202

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)
6,715,960	2004-04-06	10/175,687	2002-06-20	DRI006-P300

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	/Aaron J. Wong/	Date (YYYY-MM-DD)	2010-03-30
Name	Aaron J. Wong	Registration Number	61871

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. 6715960
Issue Date: April 6,2004
Application No. 10175687
Filed: June 20,2002
Attorney Docket No. 65,252-003

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 30,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 30,2010 .
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

Paper No. 6

WALL MARJAMA & BILINSKI
101 SOUTH SALINA STREET
SUITE 400
SYRACUSE NY 13202

COPY MAILED

JUL 1 6 2004

OFFICE OF PETITIONS

In re Application of	:
Rudi Widt	:
Application No. 10/175,694	: DECISION ON PETITION
Filed: June 20, 2002	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 327-092	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed October 20, 2003, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/EP00/11152, filed November 10, 2000, 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 application on page one following the first sentence of the specification has been included in a concurrently filed amendment. However, the amendment as drafted is unacceptable. In this regard, the amendment states the following: "This application is a national stage filing of International Application PCT/EP00/11152, filed November 10, 2000, under 35 U.S.C. § 371." Since this application was filed under the provisions of 35 U.S..C. § 111(a) and not under the provisions of 35 U.S.C. § 371, the amendment is improper to state that this application is a national stage filing of the instant application. However, it would be appropriate to state that this application is a continuation (or continuation-in-part or divisional) of PCT/EP00/11152, filed November 10, 2000. It would be further improper to state that the PCT/EP00/11152 is relied upon and incorporated herein by reference in its entirety and the benefit of priority under 35 U.S.C. § 371. More specifically, Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment correcting the above matters, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:

2011 South Clark Place
Crystal Plaza Two Lobby
Room 1B03
Arlington, VA 22202

By fax: (703) 872-9306
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-8859.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

WALL MARJAMA & BILINSKI
101 SOUTH SALINA STREET
SUITE 400
SYRACUSE, NY 13202

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OCT 15 2004

OFFICE OF PETITIONS

In re Application of
Rudi Widt
Application No. 10/175,694
Filed: June 20, 2002
Attorney Docket No. 327-092

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed September 24, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to the prior-filed PCT application 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.

---

[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 pending application was filed on June 20, 2002, and was pending at the time of filing of the instant petition. 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)(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 application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed I 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 and 365(c) 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 application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Karen Creasy at (571) 272-3208.

The examiner of Technology Center Art Unit 2856 will consider applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to prior-filed PCT Application No. PCT/EP00/11152.

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

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

INTEL/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 05/17/2010

Applicant	: Brett Schein	: DECISION ON REQUEST FOR
Patent Number	: 7630346	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/175,707	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/20/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1551** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 5

RITA D. VACCA
BAUSCH & LOMB INCORPORATED
ONE BAUSCH & LOMB PLACE
ROCHESTER, NY 14604-2701

COPY MAILED

SEP 2 3 2003

OFFICE OF PETITIONS

In re Application of :
Joseph C. Salamone, et al. :
Application No. 10/175,716 :
Filed: June 19, 2002 :
Attorney Docket No. P02989 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 7, 2003, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed August 8, 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 October 9, 2002.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES 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.

KNOBBE, MARTENS,
OLSON & BEAR, LLP
2040 MAIN STREET
IRVINE, CA 92614

COPY MAILED

FEB 06 2006

OFFICE OF PETITIONS

In re Application of	:	
Goddard et al.	:	DECISION ON PETITION
Application No. 10/175,749	:	
Filed: June 19, 2002	:	
Atty Docket No. P3430R1C48	:	

This is a decision on the PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT UNDER 37 C.F.R. 1.181 filed January 3, 2006.

The petition under § 1.181 is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper reply to the final Office action mailed May 31, 2005. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply considered timely filed and no extension of time considered obtained, the application became abandoned effective September 1, 2005. A courtesy Notice of Abandonment was mailed on December 21, 2005.

Applicant submits that the Notice of Abandonment was issued in error. Applicant states that a Notice of Appeal and a Request for Extension of Time were received in the Office on October 21, 2005. In support thereof, applicant encloses copies of the Notice of Appeal and Request for Extension of Time along with their itemized and date-stamped postcard.

Petitioner's evidence has been considered. A review of the copy of the Notice of Appeal as petitioner maintains it was filed

reveals that it included an incorrect application number. A further review of the image file wrapper for the other application reveals that the reply was received in the other application with a date-stamp of receipt thereon of October 21, 2005 (but closed without entry into the prosecution history of that case). Thus, it is concluded that the response was timely filed, albeit with the incorrect application number (but other correct identifying information).

The Notice of Appeal and Extension of Time as filed on October 21, 2005 have been moved to the image file wrapper of this application. Likewise, the appeal fee of $500 and the extension fee of $450 paid October 21, 2005 have been associated with the finance records for this application.

In view thereof, the Notice of Abandonment is hereby **vacated**, and the holding of abandonment is **withdrawn**.

No fee is required on petition under § 1.181.

Please be advised that the two-month period for filing an appeal brief (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the mail date of this decision.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

PARSONS HSUE & DE RUNTZ LLP
655 MONTGOMERY STREET
SUITE 1800
SAN FRANCISCO CA 94111

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Henry Chien et al :
Application No. 10/175,764 :
Filed: June 19, 2002 :
Attorney Docket No. —12447-US :

This is a decision on the petition, filed April 29, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 19, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 2818 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

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Paper No. 6

MAIL

NOV 21 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of:
Hisatomi et al.
Application No. 10/175,813
Filed: June 21, 2002
For: **RECORDING MEDIUM, PLAYBACK APPARATUS AND RECORDING/PLAYBACK APPARATUS THEREOF**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition received October 3, 2002 (recently matched with the application) under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination (paper No. 5).

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111(b) and (c), how the claimed subject matter is patentable over the references.

The petition lacks a statement that a pre-examination search was made with respect to the claim invention of the instant application. Petitioner states "A search was conducted by the U.S. Patent and Trademark Office in the parent case of the present application ..hereinafter Histomi...The search record indicates that the search in Histomi was conducted in classes..". Moreover, Petitioner states "Further, Applicants conducted a supplemental search of the PATOLIE (Patent Online Information System in support of a request for expedited examination submitted to the Japanese Patent Office for Applicants' related Japanese application..". Neither the parent U.S. application nor Applicants' related Japanese application are being considered for special status. It is the instant application and the corresponding claims which petitioner seeks special status. Therefore, the instant petition lacks a satisfactory statement which satisfies item (4) above.

For the above stated reasons, the petition is **DENIED**.

Should applicant desire reconsideration, he/she should supplement this petition by a declaration or statement under oath giving the information as outlined above. No further petition fee is required.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision.

The application is being forwarded to the group Central File and will await action in its regular turn.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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MAIL

Paper No. 5

DEC 01 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 North Seventeenth Street
Suite 1800
Arlington, VA 22209

In re Application of Fabian S. TILLIER Application No. 10/175,836 Filed: June 21, 2002 For: I/O UNIT EMULATION	DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed June 19, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communication from the Office will be 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 U.S. Patent and Trademark Office (the Office) of any change in correspondence address to ensure receipt of all communications from the Office.

For Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software and
Information Security
(703) 305-9750

cc: Schwegman, Lundberg, Woessner & Kluth P.A.
c/o Anne Richards
1600 TCF Tower
121 S. 8th Street
Minneapolis, MN 55402

10/175853

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : December 12, 2005

TO SPE OF : ART UNIT 1618

SUBJECT : Request for Certificate of Correction on Patent No.: 6939530 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Antonio Johnson
Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 112

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments:

_____

_____

_____

_____

_____

SPE — 1618 Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Sterne, Kessler, Goldstein & Fox PLLC
1100 New York Avenue, N.W.
Washington D.C. 20005

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SEP 0 5 2006

OFFICE OF PETITIONS

In re Application of

Howard Feldman et al.
Application No. 10/175,854
Filed: June 21, 2002
Attorney Docket No. 1487.0390000

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 7, 20006.

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 Linda E. Horner.

Linda E. Horner has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LOWE HAUPTMAN HAM & BERNER, LLP
1700 DIAGONAL ROAD
SUITE 300
ALEXANDRIA VA 22314

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FEB 23 2009

OFFICE OF PETITIONS

In re Application of
Shin et al.
Application No. 10/175,855
Filed: June 21, 2002
Attorney Docket No. P67984US0

DECISION ON PETITION

This is a decision on the petition, filed December 12, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the Notice of Allowance mailed September 20, 2007, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on January 16, 2008.

Petitioner asserts that the Notice of Allowance dated September 20, 2007 was not received.

A review of the written record indicates an irregularity in the mailing of the Notice of Allowance of September 20, 2007. In this regard, the Office received a change of address on August 16, 2007, prior to the mailing of the Notice of Allowance of September 20, 2007. Office records were not updated to reflect this new change of address. Accordingly, as the Office action was mailed to an incorrect address, the Notice of Abandonment mailed January 16, 2008 is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 2616 for remailing the Notice of Allowance and Notice of Allowability of September 20, 2007 and resetting the period for reply.

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 7

RONALD L. GRUDZIECKI
BURNS DOANE SWECKER & MATHIS, LLP.
P.O. BOX 1404
ALEXANDRIA, VA 22313

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DEC 17 2002

OFFICE OF PETITIONS

In re Application of :
Trent, et al. :
Application No. 10/175,876 : ON PETITION
Filed: June 21, 2002 :
Attorney Docket No. 024003-135 :

This is a decision on the petition under 37 CFR 1.182, filed October 18, 2002, to change the order of the names of the inventors.

The petition is granted.

The order of the names of the inventors will be changed as follows:

1. JOHN W. TRENT, St. Paul, VA
2. RONALD L. PAXTON, Bristol, VA
3. KENNETH S. MONYAK, Abingdon, VA
4. ROBERT D. REYNOLDS, Bristol, VA

This application is being forwarded to Technology Center 3700 via the Office of Initial Patent Examination, to change the order of inventorship.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 7/16/09

TO SPE OF : ART UNIT 2625

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/175878 Patent No.: 7259890 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D62-B
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
703-756-1591

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: The changes/corrections as shown in the COCIN document dated 07/08/2009 are approved and no new matter has been introduced and the scope and/or meaning of the claims has not been changed. /Charlotte M Baker/

/Edward L Coles/ — **SPE**

2625 — **Art Unit**

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COMMISSIONER FOR PATENTS
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Paper No. 8

LAW OFFICES OF JEROME J. NORRIS
SUITE 305
1901 PENNSYLVANIA AVENUE, NW
WASHINGTON, DC 20006

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JUN 03 2003

OFFICE OF PETITIONS

In re Application of
Neumann
Application No. 10/175,919
Filed: June 21, 2002
For: USE OF RETINOIC ACID FOR TREATMENT OF AUTISM

ON PETITION

This decision concerns the May 21, 2003 petition under 37 CFR 1.137(b) to revive the above-referenced application.

The petition is **GRANTED.**

The application became abandoned on January 4, 2003 for failure to timely submit a proper reply to the October 3, 2002 non-final Office Action.

The instant petition includes the $650 petition fee (small entity), an amendment in response to the October 3, 2002 non-final Office Action, and a statement that the entire delay in filing the reply from its due date until the filing of a grantable §1.137(b) petition was unintentional. The petition is thus granted.

The application file is being returned to Technology Center 1600 for further examination.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Marina Portnova
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1026

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SEP 19 2006

OFFICE OF PETITIONS

In re Application of	:	
THIND, et al.	:	
Application No. 10/175,943	:	DECISION ON PETITION
Filed: June 19, 2002	:	TO WITHDRAW
Attorney Docket No. 5306.P083	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 03, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP has been revoked by the assignee of the patent application on September 11, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to PatriciaVolpe at (571) 272-6825.

David Bucci
Petitions Examiner
Office of Petitions

cc: CSA LLP
4807 Spicewood Springs Road
Bldg. 4, Suite 201
Austin, TX 78759

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/175,943	06/19/2002	Jasjeet Singh Thind	5306P083

CONFIRMATION NO. 1106

OC000000020463312

08791
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

Date Mailed: 09/18/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/11/2006.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

PATRICIA A VOLPE
OP (571) 272-6825

FORMER ATTORNEY/AGENT COPY

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United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
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ANTONELLI TERRY STOUT & KRAUS LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-9889

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SEP 12 2003

OFFICE OF PETITIONS

In re Application of
Koichi Seki et al
Application No. 10/175,958
Filed: June 21, 2002
Attorney Docket No. 501.28182C16

ON PETITION

This is a decision on the petition, filed September 11, 2003, 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 July 8, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (703) 306-5684.

After receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2818 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[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

Technology Center 1700.

Mailed: JUL 27 2004

rvk
Paper Number:_____

In re application of
Larry J. Ashton et al.
Serial No. 10/175,964
Filed: June 20, 2002
For: RESIN IMPPREGNATED MULTI-ORIENTATION COMPOSITION MATERIAL :

DECISION ON PETITION

This is a response to the "PETITON TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 C.F.R.1.181", filed January 05, 2004 and April 13, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of December 17, 2003, for failure to timely file a proper response to the Office letter dated July 29, 2003 be withdrawn. The petitioner asserts that applicants timely filed a proper response with a Petition for a one-month Extension of Time to the Office letter (i.e. Restriction Requirement) of July 29, 2003 on September 09, 2003.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee).

A review of the petitioner's evidence provided with the instant petition indicates that the request has merit. The evidence presented is sufficient to establish that the applicants did file the proper response to the Office letter (i.e. Restriction Requirement) of July 29, 2003 in a timely manner. The evidence provided includes : 1) a copy of the Response to the Office letter of July 29, 2003 and Petition for one-month Extension of Time dated January 02, 2004 with an executed Certificate of Mailing dated September 09, 2003 (Exhibit A); and 2) a copy of the returned stamped postcard confirming receipt of the Response ,Petition for one-month Extension of Time and Credit Card Payment Form for $55.00 by the USPTO dated September 12, 2003 (Exhibit B).

Therefore, the abandonment is hereby withdrawn, and the application is returned to pending status. The case will be forwarded to the Technical Support Staff for entering of the Response of September 09, 2003 and then forwarded to the examiner for prompt consideration.

The Petition is **GRANTED**.

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

MADSON & METCALF
GATEWAY TOWER WEST
SUITE 900
15 WEST SOUTH TEMPLE
SALT LAKE CITY, UT 84101

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Alexandria, VA 22313-1450
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SEAGATE TECHNOLOGY LLC C/O
WESTMAN
CHAMPLIN & KELLY, P.A.
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS, MN 55402-3319

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AUG 3 1 2007

OFFICE OF PETITIONS

In re Application of :
Wang, et al. :
Application No. 10/175,967 : ON PETITION
Filed: June 20, 2002 :
Attorney Docket No. S01.12-0899/STL10657

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed on August 9, 2007.

The petition is **granted**.

This application was held abandoned on October 21, 2006, after it was believed that no response was received to the non-final Office action mailed July 20, 2006. The notice allowed a shortened 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 response was not received and the application became abandoned on October 21, 2006. A Notice of Abandonment was mailed on June 11, 2007.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as prove that the imposition of a holding of abandonment, or termination of proceedings, is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is withdrawn accordingly.

The application file is being forwarded to Technology Center 2600, GAU 2627 for further processing, including remailing of the non-final Office action and resetting of the period for reply thereto.

Questions concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NOV -2 2004

Paper No. 7

In re Application of	:	
Weifang Miao	:	
Application No. 10/175,976	:	DECISION ON PETITION
Filed: June 20, 2002	:	
Attorney Docket No. 103863	:	

This is a decision on the petition filed on September 21, 2004 by which petitioner requests withdrawal of holding that this application stands abandoned for failure to file a timely reply to the Office letter dated September 23, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required. A previously filed facsimile transmission dated September 17, 2004 requesting reconsideration of the holding of abandonment is also in the record.

The petition is granted.

Petitioner alleges that this application is not abandoned because petitioner did in fact file a timely reply to the Office letter in question. Petitioner supports this allegation by submitting a copy of the reply, a copy of a one month extension of time with the fee therefor, and a copy of an itemized transmittal letter for these papers. Petitioner has also submitted a copy of a post card receipt showing that these papers were received in the Office on November 24, 2003, a Monday, which is a date within the period set for filing a reply to the Office letter in question, as extended. Based upon this evidence, it is clear that this application is not abandoned. Office financial records also confirm receipt of the extension fee.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner for entry of the reply that is attached to the petition. The date to which the reply is entitled is November 24, 2003. Thereafter, the application will be forwarded to the examiner for immediate action.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Carl A. Ronald, Esq.
1500 One PPG Place
Pittsburgh, PA 15222

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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JUN 18 2007

OFFICE OF PETITIONS

B. CRAIG KILLOUGH
P. O. DRAWER H
CHARLESTON, SC 29402

In re Application of
David R. Lund
Application No.: 10/176,009
Filed: June 9, 2002
Attorney Docket No: 728.023

ON PETITION

This is in response to the petition under 37 CFR 1.137(b) filed May 30, 2007.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

This application became abandoned for failure to respond in a timely manner to the non-final Office action mailed September 1, 2005. The notice set a shortened statutory period for reply of three-months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). No response was received within the allowed period, and the application became abandoned on December 2, 2005. A Notice of Abandonment was mailed on March 29, 2006.

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition does not satisfy the requirements of item (2) above.

The fee for the instant petition is $1,500.00 for a small entity or $750.00 for a small entity. The amount of $250.00 sent with the petition is noted, but is insufficient to cover the fee for a petition under 37 CFR 1.137(b). The renewed petition must be accompanied by an additional $500.00 in order to be considered grantable.

Further correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop Petitions
Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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B. CRAIG KILLOUGH
P. O. DRAWER H
CHARLESTON, SC 29402

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JUL 27 2007

OFFICE OF PETITIONS

In re Application of

David R. Lund :

Application No. 10/176,009

: DECISION ON PETITION

Filed: June 9, 2002

:

Attorney Docket No. 728.023

This is a decision on the renewed petition under 37 CFR 1.137(b), filed, July 12, 2007, to revive the above-identified application.

The renewed petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 1, 2005, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on December 2, 2005. A Notice of Abandonment was mailed on March 29, 2006. A petition under 37 CFR 1.137(b) was first filed on May 30, 2007, and dismissed by a decision mailed June 18, 2007.

The amendment filed May 30, 2007, and in duplicate on July 12, 2007, is noted.

The amount of $500.00, remitted July 12, 2007, is noted and will be credited towards the satisfaction of the fee for the instant petition,

The application is being forwarded to Technology Center 3600, GAU 3682 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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Fish & Neave IP Group
Ropes & Gray LLP
One International Place
Boston, MA 02110-2624

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OFFICE OF PETITIONS

In re Application of	:	
Yan Chang et al.	:	
Application No. 10/176,022	:	DECISION ON PETITION
Filed: June 20, 2002	:	TO WITHDRAW
Attorney Docket No. GLYO-P01-005	:	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 24, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by David P. Halstead on behalf of all attorneys of record who are associated with Customer No. 28120.

All attorneys/agents associated with the Customer No. 28120 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.

Applicant is reminded that there is 2 months from the filing of the Notice of Appeal dated October 4, 2006, to file an Appeal Brief.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Yan Chang**
71 Winter Street
Asland, MA 01721

cc: **Mark G. DeGiacomo**
Murtha Cullina LLP
99 High Street, 20th Floor
Boston, MA 02110

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/176,022	06/20/2002	Yan Chang	GLYO-P01-005

CONFIRMATION NO. 9503

OC000000021089444

OC000000021089444

28120
FISH & NEAVE IP GROUP
ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON, MA 02110-2624

Date Mailed: 11/02/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/24/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Terri Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

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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APR 23 2003

Office of the Director
Group 3600

Sonya C. Harris
P.O. Box 2607
Fairfax, VA 22031

In re application of
Gary D. Dunn et al.
Application No. 10/176,029
Filed: June 21, 2002
For: WEATHER RESISTANT DOCUMENT CASE WITH ROLLED DOCUMENT COMPARTMENT AND COVER PROP

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on June 21, 2002, 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 delay in treating this petition is sincerely regretted.

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 signed statement from one of the applicant stating 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
(703) 605-0586 (facsimile)

KJD/tpl: 4/16/03

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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
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WASHINGTON, D.C. 20231
WWW.USPTO.GOV

JUL 2 2003

#8

Bernard Malina, Esq.
Malina & Wolson
60 East 42nd Street, Suite 501
New York, NY 10165

In re Application of Edward L. Koenig Serial No.: 10/176,030 Filed: June 21, 2002 For: Sequential Syringe Apparatus	: : : : :	DECISION ON PETITION

This is in response to applicants' petition filed December 16, 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

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)
6945962	2005-09-20	10176030	2002-06-21	MS-430-A

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	/Bernard Malina/	Date (YYYY-MM-DD)	2010-01-28
Name	Bernard Malina	Registration Number	24172

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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In re Patent No. 6945962
Issue Date: September 20,2005
Application No. 10176030
Filed: June 21,2002
Attorney Docket No. MS-430-A

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed January 28,2010 ,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 28,2010 . 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.

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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

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MAR 27 2006

OFFICE OF PETITIONS

In re Application of	:
Yasuo Fukuda	:
Application No. 10/176,031	: DECISION GRANTING PETITION
Filed: June 21, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 00862.022642	:

This is a decision on the petition, filed March 17, 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 7, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2624 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission), which includes the following language thereon: "The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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IBM CORPORATION, T.J. WATSON RESEARCH CENTER
P.O. BOX 218
YORKTOWN HEIGHTS, NY 10598

Mail Date: 04/20/2010

Applicant	: Richard H. Boivie	: DECISION ON REQUEST FOR
Patent Number	: 7580370	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/176,045	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/21/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1397** 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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ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA PA 19103

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JUL 20 2007

TECHNOLOGY CENTER 2100

In re Application of:	)	
Tsung-Hsuan Ho	)	
Application No. 10/176,065	)	**DECISION ON PETITION**
Filed: June 21, 2002	)	**UNDER 37 CFR § 1.181**
For: NEURAL NETWORK FOR	)	
DETERMINING THE ENDPOINT IN	)	
A PROCESS		

This is a decision on the petition, filed on 27 December 2006, under 37 C.F.R. § 1.181 to request that the Pre-Appeal panel conduct a conference to consider the merits of the Pre-Appeal Brief filed on August 1, 2006.

The petition is **DENIED**.

RECENT PROSECUTION HISTORY

A Final Office Action was mailed February 1, 2006.

Applicant filed a "Response After Final Rejection Under 37 C.F.R. § 1.116" on May 3, 2006 (certificate of mailing dated May 1, 2006).

Examiner issued an Advisory Action on May 22, 2006 confirming the grounds of the Final Rejection

Applicant filed a Pre-Appeal Brief on August 1, 2006.

A "Notice of Panel Decision from Pre-Appeal Brief Review" was mailed on November 28, 2006 stating that the Pre-Appeal Brief was an improper request and that a conference will not be held because the request "fails to set forth a concise explanation of the alleged errors" and "[m]ere reference to prior arguments without at least a statement setting forth the alleged errors is insufficient."

ARGUMENTS

In support of the petition, petitioner asserts that the Pre-Appeal Brief fully complies with the requirements set forth in the USPTO's published guidelines. Specifically, petitioner states that the opening sentence of the Pre-Appeal Brief explicitly states what the clear error is, namely, the lack of the claimed endpoint curve limitations in Hogue et al. Sections 1a, 1b and 1c of the Pre-Appeal Brief incorporate the arguments given on pages 3-6 of the May 1, 2006 response, all of which are directed to the endpoint curve limitations. Petitioner further points out that the published guidelines explicitly encourage Applicants to refer to arguments already of record rather than repeating them in the request. See part 4 of the guidelines, repeated below (underlining added for emphasis) .In addition, petitioner asserts that Applicant cannot appeal the decision by the Pre-Appeal panel not to conduct a conference, and that Applicant's only practical alternative solution appears to be to refile the patent application and rewrite and resubmit the Pre-Appeal Brief so that it does not refer back to previous papers. However, since the USPTO rules explicitly encourage Pre-Appeal Briefs to refer back to previous papers, Applicant should not have to take this approach. Therefore, Applicant has no practical alternative but to invoke the supervisory authority of the Director.

Thus, petitioner is requesting that the Pre-Appeal panel conduct a conference to consider the merits of the Pre-Appeal Brief.

The relevant portions of the "New Pre-Appeal Brief Conference Pilot Program", OG Notices, July 12, 2005 are reproduced below:
"For example, the request should concisely point out that a limitation is not met by a reference or the examiner failed to show proper motivation for making a modification in an obviousness rejection (35 U.S.C. 103). Applicants are encouraged to refer to arguments already of record rather than repeating them in the request. This may be done by simply referring to a prior submission by paper number and the relevant portions thereof (e.g., see paper number 3 at pages 4-6)"

> " **Panel decisions will not be petitionable because a decision to maintain a rejection is subject to appeal**. A pre-appeal brief conference panel decision that the application remains under appeal is not final agency action for purposes of court review. **An applicant dissatisfied with the result of the appeal conference must pursue the appeal before the Board of Patent Appeals and Interferences**" [Emphasis added.]

The relevant portion of 37 CFR 1.181(f) states:

> The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings.

Pursuant to the "Pre-Appeal Conference Program" Notice, specifically, in view of the above sections, the Notice of Panel Decision dated 28 November 2006 is not petitionable or reviewable under 37 CFR 1.181.

It is noted that the O. G. Notice clearly sets forth a practical option for the Applicant, in case an applicant is dissatisfied with the result of the appeal conference, namely the Applicant must pursue the appeal before the Board of Patent Appeals and Interferences, since a pre-appeal brief conference panel decision that the application remains under appeal is not final agency action for purposes of court review. Further, petitioner is reminded that the "Pre-Appeal Conference Program" is only a pilot program, and is offered by the Office as a courtesy to Applicants, in an effort to save both the resources of the applicant and the Office, while Applicants continue to have available to them the normal practice and procedures already in effect under Part 41 of the Title 37 of the Code of Federal Regulations relating to appeals and practice before the Board of Patent Appeals and Interferences. A review of the records indicates that Applicant has not pursued the appeal before the Board, and the application has gone abandoned, apparently for failure to file a timely Appeal Brief after filing of a Notice of Appeal.

For the above stated reasons, the petition is **DENIED**. The Notice of Panel Decision from Pre-Appeal Brief Review will not be withdrawn, and the application remains under appeal.

Any inquiry concerning this decision should be directed to K. Chaki whose telephone number is (571) 272-3719.

Jack Harvey for

Wendy Garber, Acting Director
Technology Center 2100
Computer Architecture, Software, and
Information Security

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 12

FINNEGAN HENDERSON, FARABOW,
GARRETT & DUNNER, LLP
1300 I STREET, NW
WASHINGTON, DC 20005-3315

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JAN 17 2003

OFFICE OF PETITIONS

In re Application of
Desmaris, et al.
Application No. 10/176,066
Filed: June 21, 2002
Attorney Docket No. 03495-0232
For: PURIFIED NUCLEIC ACID MOLECULE FOR THE EXPRESSION OF A LYSOSOMAL ENZYME AND USE THEREOF FOR PREVENTING OR TREATING LYSOSOMAL STORAGE DISEASES

DECISION GRANTING PETITION

This is a decision on the petition entitled, "PETITION THAT FIGURE 1 WAS IN FACT DEPOSITED IN THE PATENT AND TRADEMARK OFFICE WITH THE NONPROVISIONAL APPLICATION PAPERS", filed November 20, 2002, requesting, in effect, withdrawal of the Notice to File Omitted Item(s) in a Nonprovisional Application (Notice), mailed October 23, 2002. The petition will be treated under 37 CFR 1.53(e).

The application was deposited on June 21, 2002. On October 23, 2002, the Office of Initial Patent Examination (OIPE) mailed a Notice informing petitioners that figure 1 described in the specification appeared to have been omitted.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that figure 1 be accorded a filing date of June 21, 2002 on the basis that figure 1 was received in the Patent and Trademark Office (PTO) on June 21, 2002. In support, the petition is accompanied by a copy of page 10 of the specification, that shows figure 1 is embedded within the text.

The request is granted. Pursuant to petitioner's authorization, the $130.00 petition fee will be credited to deposit account no. 06-0916.

However, petitioners are reminded that 37 CFR 1.58 prohibits the inclusion of drawings in the specification. Petitioners are required to file a preliminary amendment removing figure 1 from the specification.

The application is being returned to OIPE for further processing, with a filing date of **June 21, 2002**, using the copy of figure 1 submitted with the instant petition. OIPE will require petitioners to make necessary changes to figure 1 to remove excessive text, etc.

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

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Paper No. 7

ANTONY C. EDWARDS
SUITE 800 – 1708 DOLPHIN AVENUE
KELOWNA, BC V1Y 9S4
CANADA

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OFFICE OF PETITIONS

In re Application of	:	
Osborne, Donald Charles	:	
Application No. 10/176,073	:	ON PETITION
Filed: June 21, 2002	:	
Attorney Docket No. ACE-16358	:	

This is a decision on the petition under 37 C.F.R. § 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 reply within three months to the non-final Office action mailed June 5, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on September 6, 2003. A Notice of Abandonment was mailed on December 29, 2003.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The file is now being forwarded to Technology Center 2600 for further examination on the merits.

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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DIW 11-02

Paper No. 6

HUMAN GENOME SCIENCES INC
9410 KEY WEST AVENUE
ROCKVILLE MD 20850

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NOV 2 0 2002

OFFICE OF PETITIONS

In re Application of	:
Li et al.	: DECISION GRANTING
Application No. 10/176,079	: PETITION
Filed: 21 June, 2002	:
Att'y Dckt. No. PF145P1D1C1	:

This is a decision on the petition filed on 31 October, 2002, requesting that the above-identified application be accorded a filing date of 21 June, 2002.

The petition is **GRANTED**.

On 21 June, 2002, the application was filed.

On 23 July, 2002, Initial Patent Examination Division mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" stating that the application had been accorded a filing date of 21 June, 2002, but that Page 45 of the specification (description and claims) appeared to have been omitted.

In response, on 27 August, 2002, petitioner filed a response to the Notice stating, *inter alia*, that no pages were actually missing from the application and that the application had been mispaginated, resulting in the omission of Page 45. Applicants also filed an additional repaginated copy of the specification. Accordingly, the application was accorded a filing date of 27 August, 2002, using the copy of the specification filed on 27 August, 2002.

In response, on 31 October, 2002, the present petition was filed. Petitioners assert that they desire the original filing date of 21 June, 2002, but simply wish to correct the incorrect

pagination in the original specification. Petitioner requests that the application be accorded a filing date of 21 June, 2002, using the application papers filed on that date.

Upon review, it is obvious from the petition filed on 27 August, 2002, that petitioners wished to amend the specification to correct the error in pagination. However, no petition is required for that purpose. Accordingly, the application will be reprocessed with a filing date of 21 June, 2002, using the application papers filed on that date. The copy of the specification supplied on 27 August, 2002, will not be used for processing or examination, but will be retained in the application file.

As the present petition was not due to an error on the part of petitioners, the petition fee of $130.00 will be credited to counsel's deposit account, No. 08-3425.

Petitioner should note that the pages of the specification including claims and abstract must be numbered consecutively starting with 1.[1]

To avoid further confusion, petitioner should submit an amendment prior to the first Office action to renumber the specification, starting with page 1 as the first page, so that the specification, including claims, and the abstract are numbered consecutively, starting with 1.

The application will be returned to the Office of Initial Patent Examination for reprocessing with a filing date of 21 June, 2002, using the application papers supplied on that date.

Telephone inquires should be directed to the undersigned at 703 308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] 37 CFR 1.52(b)(5).

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PERKINS COIE LLP
P O BOX 2168
MENLO PARK, CA 94026

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OFFICE OF PETITIONS

In re Application of
Bryan M. Kelly et al
Application No. 10/176,100
Filed: June 19, 2002
Attorney Docket No. 59027-8001.US11

ON PETITION

This is a decision on the petition under 37 CFR § 1.78(a)(3), filed May 17, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of the prior-filed nonprovisional applications set forth in the concurrently filed Application Data Sheet (ADS).

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR §§ 1. 78(a)(3) is only applicable to those applications filed on or after November 29, 2000.

The instant pending nonprovisional application was filed on June 19, 2002, and was pending at the time of filing of the instant petition. While a reference to the prior-filed applications was not included in an ADS or in the first sentence of the specification following the title as prescribed by 37 CFR 1.78(a)(iii), reference nevertheless was made in the transmittal letter filed with the above-identified application.[1]

The current procedure where a claim for priority under 37 CFR § 1.78(a)(3) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR § 1.78(a)(2)(ii). However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed application(s) set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR §

[1] Although the filing date of Application No. 09/695,712 was incorrect, the computer database picked up the correct filing date of the application..

1.78(a)(3).[2] In the instant case, the Office noted the claim for priority of the prior-filed applications in the transmittal letter filed with the application, as shown by their inclusion on the filing receipt.

In view of the above, the $1,330 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

Any questions concerning this decision on petition may be directed to the undersigned at (703) 305-8680. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to the Examiner of Technology Center AU 3711 for appropriate action on the ADS filed May 17, 2004, including consideration of the claims under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for benefit of the prior-filed applications.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[2] *Note* MPEP 201.11 (V), page 200-75 (Rev. 1. Feb. 2004 and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

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LOS ALTOS CA 94023-1639

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OFFICE OF PETITIONS

In re Application of :
Bryan M. Kelly et al :
Application No. 10/176,100 :
Filed: June 19, 2002 :
Attorney Docket No. BLLYP001.US11 :

ON PETITION

This is a decision on the petition, filed March 1, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 30, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 3711 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new 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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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 300
MCLEAN, VA 22102

In re application of:
Edward F. Downs, Jr.
Application No. 10/176,111
Filed: June 21, 2002
For: DIRECTIONAL SENSORS FOR HEAD-MOUNTED CONTACT MICROPHONES

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as attorney/agent and change of correspondence address filed on February 1, 2005.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, the request is **GRANTED.**

All attorneys/agents listed in the withdrawal have been withdrawn.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

cc: JAMES REMENICK
POWELL GOLDSTEIN LLP
901 NEW YORK AVENUE, N.W.
THIRD FLOOR
WASHINGTON, DC 20001-4413

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NELSON MULLINS RILEY & SCARBOROUGH, LLP
1320 MAIN STREET, 17TH FLOOR
COLUMBIA SC 29201

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OFFICE OF PETITIONS

In re Application of	:	
Kanafani, et al.	:	DECISION ON PETITION
Application No. 10/176,121	:	
Filed: June 18, 2002	:	
Docket No.: 19400/0905	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 23, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-final Office action mailed August 24, 2005. The Notice set a three (3) month shortened statutory period of time for reply. No extensions of time in accordance with 37 C.F.R. § 1.136 were timely requested. Notice of Abandonment was mailed August 14, 2006.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the non-final Office action is accepted as having been unintentionally delayed.

This application is being forwarded to Technology Center 1600 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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NADA JAIN, P.C.
560 White Plains Road, Suite 460
Tarrytown NY 10591

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OFFICE OF PETITIONS

In re Application of	:
Kati A. Chevaux, et al.	: DECISION ON PETITION
Application No. 10/176,126	: UNDER 37 CFR 1.78(a)(3)
Filed: June 19, 2002	:
Atty Docket No. 5677-182	:

This is in response to a communication filed June 4, 2004, requesting a decision on the petition under 37 CFR 1.78(a)(3), filed on March 12, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed concurrently 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(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 June 19, 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).

The statement contained in the instant petition is being construed as the statement required by 37 CFR 1.78(a)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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 application was submitted during the pendency of the instant nonprovisional application. *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.

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 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.

This application is being forwarded to Technology Center Art Unit 1654 for consideration by the Examiner of the amendment filed March 12, 2004, including 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 application.

Telephone inquiries related to this decision should be directed to Sherry D. Brinkley at 703-305-9220.

Frances Hicks

Frances M. Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

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GOLD & RIZVI, P.A.
Suite 450
600 North Pine Island Rd.
Plantation, FL 33324

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OFFICE OF PETITIONS

In re Application of
Gregory D. Wohrle
Application No. 10/176,129
Filed: June 20, 2002
Attorney Docket No. 5075.0301

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed July 15, 2004.

The petition is GRANTED.

The application became abandoned for failure to pay the issue fee on or before June 10, 2004. Receipt is acknowledged of the requisite issue fee on July 15, 2004.

The application is being forwarded to Publishing Division.

Telephone inquires related to this decision should be directed to the undersigned at (703) 305-9220. Telephone inquiries related to processing at Publishing Division should be directed to (703) 305-8283.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of	:	
Naimi Mezaache, et al.	:	
Application No. 10/176,135	:	DECISION GRANTING PETITION
Filed: June 21, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 314966US76CIP	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 3, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 12, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries regarding the examination or status of this application should be directed to the Technology Center.

This application 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 petition to correct inventorship under 37 CFR 1.48(a).

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/22/06

TO SPE OF : ART UNIT 1638

SUBJECT : Request for Certificate of Correction on Patent No.: 7067722

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

The changes are to correct Patent Office errors (typos) at printing. EM

SPE

1638
Art Unit

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : November 05,2007

TO SPE OF : ART UNIT 3763

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/176,160 Patent No.: 6884239 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code COCX

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME

Certificates of Correction Branch

703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

xApproved	**All** changes apply.
☐ Approved in Part	Specify below which changes **do not** apply.
☐ Denied	State the reasons for denial below.

Formatted: Indent: Left: 1.22"

Comments: _____

3763

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

NICHOLAS D. LUCCHESI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Kenneth Allen
TOWNSEND AND TOWNSEND AND
CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, CA 94111-3834

In re Application of:)
Mayank S. Chaudhary, et al.)
Application No. 10/176,198) **DECISION ON REQUEST FOR**
Filed: June 19, 2002) **WITHDRAWAL AS ATTORNEY**
For: METHOD AND SYSTEM FOR TRANSPARENTLY AND SECURELY INTERCONNECTING A WLAN RADIO ACCESS NETWORK INTO A GPRS/GSM CORE NETWORK)

This is a decision on the Request To Withdraw from Representation filed February 10, 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 February 10, 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.

James R. Matthews

JM Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Barbara Rae-Venter
RAE-VENTER LAW GROUP
574 Cortes Street
Monterey, CA 93940

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RAE-VENTER LAW GROUP, P.C.
P.O. BOX 1898
MONTEREY CA 93942-1898

MAIL

MAY 0 4 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Chaudhary et al.
Application No. 10/176,198
Filed: June 19, 2002
For: METHOD AND SYSTEM FOR TRANSPARENTLY AND SECURELY INTERCONNECTING A WLAN RADIO ACCESS NETWORK INTO A GPRS/GSM CORE NETWORK

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed 12 April 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

In those instances where the request for this special status does not meet all the prerequisites set forth above, **applicant will be notified and the defects in the request will be stated**. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Technology Center (TC) Special Program Examiner.

The petition filed 12 April 2005 fails to adequately meet requirement (e) of the criteria set forth above. The discussion of the references does not point out with the particularity required by 37 CFR 1.111(b) and (c) how the claimed subject matter is patentable over the references. The discussion fails to specifically point out how the **language** of **each** of independent **claims** 1, 5, 9, 12, and 13 patentably distinguishes them from **each** of the **references**. Rather, the discussion simply states that the claimed invention "presents the integration as an extraneous method where interworking functions for WLAN are defined" (for reference US Patent 6,741,868) and that "the subject invention does not use a proxy for aggregation purposes" (for US Patent 6,766,377).

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

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

JJGJR.: 02-05

Paper No: __

PEACOCK MYERS AND ADAMS P C
P O BOX 26927
ALBUQUERQUE NM 87125-6927

COPY MAILED

FEB 18 2005

OFFICE OF PETITIONS

In re Application of
Soloway :
Application No. 10/176,199 :
Filing Date: 19 June, 2002
Attorney Docket No. 31300-1001 :

This is a decision on the petition filed on 22 November, 2004, alleging unavoidable delay under 37 C.F.R. §1.137(a).

For the reasons set forth below, the petition as considered under 37 C.F.R. §1.137(a) is **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision under 37 C.F.R. §1.137(a) (as to unavoidable delay) or an alternative request for relief under 37 C.F.R. §1.137(b)[1] (as to unintentional delay) must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R.

[1] Effective December 1, 1997, the provisions of 37 C.F.R. §1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 C.F.R. §1.137(b). a grantable petition filed under the provisions of 37 C.F.R. §1.137(b) must be accompanied by:
(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.
(2) the petition fee as set forth in 37 C.F.R. §1.17(m);
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and
(4) any terminal disclaimer (and fee set forth in 37 C.F.R. §1.20(d)) required pursuant to 37 C.F.R. §1.137(c). (Emphasis supplied.)

§1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(a)"; and/or "Petition under 37 C.F.R. §1.137(b)";

(2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to a Restriction Requirement mailed on 24 September, 2003, with reply due absent a request and fee for an extension of time on 24 October, 2003;
- the application went abandoned after midnight 24 October, 2003;
- the Office mailed a Notice of Abandonment on 29 September, 2004;
- on 22 November, 2004, Petitioner filed the instant petition, with fee, and an Election as his reply, and stated therein as his showing under the regulation:

> 1. On August 19, 2003, the Patent Office responded and stated that the projected examination date was approximately 9 to 12 months.
>
> 2. Per scheduled status check, upon review of the U.S. Patent and Trademark Office's PAIR site in September it was discovered that a Restriction Requirement was mailed form the Patent Office on September 24, 2003, a mere one month after the status inquiry response.
>
> 3. Applicant states that on August 11, 2003, a Status Inquiry was filed with the U.S. Patent and Trademark Office.
>
> 4. Applicant reasonably relied on the Patent Office's estimate as to the examination date in generating a status check.

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 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(a) are the petition and fee, a showing of unavoidable delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

Petitioner does not suggest that he did not receive the Restriction Requirement mailed by the

---

[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.

Examiner. Rather, Petitioner suggests that he was not expecting the Office action to arrive so quickly. Petitioner alleges submission of a Status Inquiry, but provides no documentary support (copy of the Inquiry over a certificate of mailing (37 C.F.R. §1.8) and a copy of the Office response–of which documents the record contains no evidence.

Petitioner is reminded that all practice before the Office is in writing. (See: 37 C.F.R. §1.2.[8])

If Petitioner in fact did not receive the Office action and can demonstrate (mail logs, docket reports) that allegation, Petitioner might request withdrawal of the holding of abandonment (under 37 C.F.R. §1.181).

However, in the absence of such a showing , it appears that Petitioner's only alternative is to seek revival under 37 C.F.R. §1.137(b) alleging unintentional delay.

As of this writing Petitioner has failed to satisfy the "showing" requirement of the regulation.

CONCLUSION

In the absence of the proper showing, the instant petition under 37 C.F.R. §1.137(a) hereby is **dismissed**.

ALTERNATIVE VENUE

It appears that Petitioner will be unable to make a showing of unavoidable delay. Petitioner's only alternative to irretrievable abandonment is to file a petition under 37 C.F.R. §1.137(b) (state therein that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional").

Thus, Petitioner may wish to supplement the petition to plead alternatively under 37 C.F.R. §1.137(b) wherein the "showing" burden is much less onerous.

Further correspondence with respect to this matter should be addressed as follows:

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[8] 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.

By mail: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(703) 872-9306
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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AUG 1 5 2005

OFFICE OF PETITIONS

In re Application of
Soloway :
Application No. 10/176,199 :
Filing Date: 19 June, 2002
Attorney Docket No. 31300-1001 :

This is a decision on the renewed petition filed on 28 March, 2005, alleging unavoidable delay under 37 C.F.R. §1.137(a), alternatively alleging for the first time 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(a) is **DISMISSED**; and
- §1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to a Restriction Requirement mailed on 24 September, 2003, with reply due absent a request and fee for an extension of time on 24 October, 2003;
- the application went abandoned after midnight 24 October, 2003;

- the Office mailed a Notice of Abandonment on 29 September, 2004;

- on 22 November, 2004, Petitioner filed the original petition under 37 C.F.R. §1.137(a), with fee, and an Election as his reply, and stated therein as his showing under the regulation: (a) On August 19, 2003, the Patent Office responded and stated that the projected examination date was approximately 9 to 12 months; (b) per scheduled status check, upon review of the U.S. Patent and Trademark Office's PAIR site in September it was discovered that a Restriction Requirement was mailed form the Patent Office on September 24, 2003, one month after the status inquiry response; (c) on August 11, 2003, Petitioner filed a Status Inquiry; (d) Petitioner relied on the Patent Office's estimate as to the examination date in generating a status check–and the petition was dismissed on 18 February, 2005, for failure to make a satisfactory showing of unavoidable because, inter alia, Petitioner made no showing of non-receipt of the Office action;

- with the instant petition as to unavoidable delay under 37 C.F.R. §1.137(a), Petitioner reasserts the argument of reliance upon the Office's estimate, but again makes no documentary showing of non-receipt[1] or proper/timely response–rather, Petitioner appears to argue that in the face of an estimate of time by USPTO, Petitioner has no responsibility to monitor receipt of Office actions and/or the progress of prosecution online;

- with the instant petition as to unintentional delay under 37 C.F.R. §1.137(b), Petitioner submits the petition and authorizes the fee, points to the previously filed election as the reply and makes 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

---

[1] Petitioner was instructed in the 18 February, 2005, decision: "If Petitioner in fact did not receive the Office action and can demonstrate (mail logs, docket reports) that allegation, Petitioner might request withdrawal of the holding of abandonment (under 37 C.F.R. §1.181)." The record does not evidence that Petitioner provided such documents in response.

[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.

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]))

As to the Allegation 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.

As of this writing Petitioner has failed to satisfy the "showing" requirement of the regulation.

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.

Petitioner has satisfied the requirements of the regulation.

---

[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.

CONCLUSION

The petition under 37 C.F.R.:

- §1.137(a) hereby is **dismissed**; and
- §1.137(b) hereby is **granted**.

The instant application is released to Technology Center 3700 for further processing in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

IBM Corporation
Intellectual Property Law, Dept. 917
3605 Highway 52 North
Rochester, MN 55901

Mail Date: 04/21/2010

Applicant	: Gordon James Smith	: DECISION ON REQUEST FOR
Patent Number	: 7631067	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/176,205	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/20/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1777** 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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Paper No. 14

The Law Offices of Jessica Costa, PC
501 Collings Avenue
Collingswood, NJ 08107-1607

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OFFICE OF PETITIONS

In re Application of :
Kevin King :
Application No. 10/176,257 : REQUEST FOR INFORMATION
Filed: June 20, 2002 :
Attorney Docket No. 3030/102 :

This is in regards to the petition filed on November 21, 2003, pursuant to 37 C.F.R. §1.137(b) to revive the above-identified application. This request is made in light of the supplement to petition filed November 24, 2003.

Applicant is given ONE (1) MONTH from the mailing date of this letter to provide the requested information. This period is not extendable under 37 CFR 1.136. Failure to reply will result in a decision being rendered on the petition without consideration of such information.

For the following reasons, additional information is required:

On petition, applicant states that the application was unintentionally abandoned for failure to timely file the Appellant's Brief due on October 26, 2003. However, a review of the application file indicates that the application became abandoned for failure to file a timely and proper response to the final rejection mailed March 26, 2003. The Office action set a shortened statutory period of three months for reply, with extensions of time obtainable under § 1.136(a). An amendment was filed on June 3, 2003; however, it was determined by the examiner not to place the application in condition for allowance (See Advisory Action mailed June 18, 2003). A Notice of Appeal and an extension of time for response within the second month were filed on August 28, 2003. Yet, the extension of time only extended the period for response to Tuesday, August 26, 2003. Moreover, the Notice of Appeal did not include a certificate of mailing under § 1.8. No general authorization to charge a Deposit Account the extension of time required to accept the Notice of Appeal as timely filed being present in the application file and no further extension of time having been filed, the application became abandoned effective August 27, 2003.

Had the Notice of Appeal been timely filed, the application would not yet have become abandoned for failure to timely file an appeal brief. Pursuant to 37 C.F.R. § 1.192(a), applicant has two (2) months from the date of the Notice of Appeal to file an appeal brief (and fee required by 37 C.F.R. § 1.17(c)). Furthermore, as explained in MPEP 710.02(c), the 2-month time

period for filing an appeal brief on appeal to the Board of Patent Appeals and Interferences (37 CFR 1.192(a)) and the 1-month time period for filing a new appeal brief to correct the deficiencies in a defective appeal brief (37 CFR 1.192(d)) are time periods, but are not (shortened) statutory periods for reply set pursuant to 35 U.S.C. 133. Thus, these periods are, unless otherwise provided, extendable by up to 5 months under 37 CFR 1.136(a), and, in an exceptional situation, further extendable under 37 CFR 1.136(b) (i.e., these periods are not statutory periods subject to the 6-month maximum set in 35 U.S.C. 133). Thus, the maximum extendable period for reply is to March 28, 2004. (If this time period is found to be applicable, (i.e. the Notice of Appeal is shown to have been timely filed), petitioner is advised that this decision in no way extends the period for reply to the Notice of Appeal).

Accordingly, petitioner is requested to provide evidence that the Notice of Appeal was timely filed, or to alter the instance petition, if appropriate, to show that the entire delay in filing the reply to the final rejection mailed March 26, 2003 was unintentional.

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: CUSTOMER SERVICE WINDOW
2011 South Clark Place
Crystal Plaza Two Lobby
Arlington, VA 22202

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 305-0309.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 16

The Law Offices of Jessica Costa, PC
501 Collings Avenue
Collingswood, NJ 08107-1607

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MAY 2 6 2004

OFFICE OF PETITIONS

In re Application of :
Kevin King :
Application No. 10/176,257 : DECISION ON PETITION
Filed: June 20, 2002 :
Attorney Docket No. 3030/102 :

This is a decision on the petition filed on November 21, 2003, pursuant to 37 C.F.R. § 1.137(b) to revive the above-identified application. This petition is considered in light of the supplement to petition filed November 24, 2003.

A request for information was mailed in this application on March 2, 2004. This decision is made in light of applicant's response timely filed March 11, 2004.

The petition is ***GRANTED***.

The above-identified application became abandoned for failure to file a timely and proper response to the final rejection mailed March 26, 2003. The Office action set a shortened statutory period of three months for reply, with extensions of time obtainable under § 1.136(a). An amendment was filed on June 3, 2003; however, it was determined by the examiner not to place the application in condition for allowance (See Advisory Action mailed June 18, 2003). A Notice of Appeal and an extension of time for response within the second month were filed on August 28, 2003. Yet, the extension of time only extended the period for response to Tuesday, August 26, 2003. Moreover, the Notice of Appeal did not include a certificate of mailing under § 1.8. No general authorization to charge a Deposit Account the extension of time required to accept the Notice of Appeal as timely filed being present in the application file and no further extension of time having been filed, the application became abandoned effective August 27, 2003. The instant petition precedes the mailing of a courtesy Notice of Abandonment.

Nonetheless, petitioner has met the requirements for revival under 37 CFR 1.137(b). The late filed Notice of Appeal, previously filed August 28, 2003, is accepted as the required reply. The petition includes payment of the petition fee and a statement of unintentional delay, and facts in support of that statement.

Furthermore, by supplement to petition filed March 11, 2004, petitioner amended the petition to make clear that their

statement of unintentional delay referenced the full and correct period of delay. Applicant states that "the entire delay in filing the reply to the final rejection mailed March 26, 2003 was unintentional." 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." The statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3). The statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3); that is, they are being construed as a statement that the entire delay in replying to the final Office action from the due date for the reply until the filing of a grantable petition was unintentional. Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The two-month period for filing an appeal brief in triplicate (accompanied by the fee required by 37 CFR 1.17(c)), runs from the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

It is noted that the appeal brief filed on November 21, 2003 is defective. It does not appear that the three copies of the Brief required under 37 CFR 1.192(a) have been submitted. Moreover, the fee required under 37 CFR 1.17(c) has not been filed.

The application file is being forwarded to Technology Center 2177 to await applicant's filing of an appeal brief in compliance with § 1.192(a).

Telephone inquiries regarding this decision may be made to the undersigned at (703) 305-0309.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Honeywell International Inc.
101 Columbia Road
P. O. Box 2245
Morristown, NJ 07962-2245

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OFFICE OF PETITIONS

In re Application of	:	
Wolfgang Sievert, et al.	:	
Application No. 10/176,278	:	ON PETITION
Filed: June 20, 2002	:	
Attorney Docket No. H26815 USA	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 24, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply to the Restriction Requirement mailed July 14, 2004.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Reply for Requirement for Restriction; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the application. If the person signing the 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 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 the undersigned at (571) 272-3223.

The application file is being referred to Technology Center 2800.

Marianne E. Jenkins

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

cc: Sarah Klosek
Synnestvedt & Lechner LLC
2600 Aramark Tower
1101 Market Street
Philadelphia, PA 19107-2950

UNITED STATES 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

BEUSSE BROWNLEE WOLTER MORA & MAIRE
390 N. ORANGE AVENUE
SUITE 2500
ORLANDO FL 32801

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FEB 16 2007

OFFICE OF PETITIONS

In re Application of Richard Melker Application No. 10/176,310 In re Patent No. 6,909,912 Filing Date: June 20, 2002 Issue Date: June 21, 2005 Attorney Docket Number: UF-10744 Title: NOVEL NON-INVASIVE PERFUSION MONITOR AND SYSTEM, SPECIALLY CONFIGURED OXIMETER PROBES, METHODS OF USING SAME, AND COVERS FOR PROBES	DECISION ON PETITION UNDER 37 C.F.R. §3.81(B)

This is a decision on the petition filed June 26, 2006 under 37 C.F.R. §3.81(b)[1], to correct the Assignee's information on the Issue Fee Transmittal Form PTOL-85(b).

Petitioner's representative requests that a Certificate of Correction be issued deleting one of two assignees. Petitioner's representative submits a "Certificate of Correction" for this purpose. It has been set forth that inventor Worley was deleted as an inventor; Mr. Worley had assigned his rights in the patent application to an entity by the name of Beta Biomed, Inc., but Mr. Melker did not. As such, the listing of Beta Biomed, Inc. as an assignee on the Issue Fee Transmittal form was erroneous.

37 CFR 3.81(b), effective June 25, 2004, reads:

1 See Official Gazette, June 22, 2004.

(b) After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue 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.

Office records show that Mr. Worley was deleted as an inventive entity via the granting of a petition under 37 C.F.R. §1.48(b) (filed on March 18, 2004) via the mailing of a Notice of Allowance and Issue Fee Due on April 20, 2004. Thus, the deletion occurred prior to the payment of the Issue Fee on June 14, 2004.

The petition is **GRANTED**.

Payment of the required $130 processing fee and the required $100 certificate of correction fee is acknowledged.

The Certificates of Correction Branch will be notified of this decision so that the requested Certificate of Correction can be issued.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 16

GREENBERG TRAURIG, LLP
77 WEST WACKER DRIVE
SUITE 2500
CHICAGO IL 60601-1732

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SEP 27 2005

OFFICE OF PETITIONS

In re Application of
Robert P. Lilleness et al.
Application No. 10/176,315
Filed: June 20, 2002
Patent No. 6,747,591
Issue Date: June 8, 2004
Attorney Docket No. 81230.79US1
Title: SYSTEM AND METHOD FOR RETRIEVING INFORMATION WHILE COMMANDING OPERATION OF AN APPLIANCE

DECISION ON PETITION
UNDER 37 C.F.R. §1.137(f)

This is a decision on the petition filed July 27, 2005, pursuant to 37 C.F.R. §1.137(f), to revive the above-identified application.

A grantable petition pursuant to 37 CFR 1.137(f) must be accompanied by:

(1) Notification of the filing of an application in a foreign country or under a multinational treaty that requires 18 month publication[1];
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m), and;
(3) A statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

Petitioner states that the instant nonprovisional application is the subject of an application filed in either a foreign or an international application on November 18, 2002. However, the United States Patent and Trademark Office was unintentionally not notified of this filing within 45 days

1 See PTO/SB/36 and paragraph on PTO/SB/64a for further information. Both may be downloaded at http://www.uspto.gov/web/forms/index.html.

subsequent to the filing of the subject application in either an international application or a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §1.22(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) for failure to timely notify the Office of the filing of either a foreign application or an application under a multilateral international agreement that requires publication of applications 18 months after filing.

A Notice of Rescission of Nonpublication Request was filed with the Office along with the present petition.

The petition under 37 C.F.R. §1.137(f) is **GRANTED**.

Petitioner has submitted the notification of either a foreign or an international filing, paid the petition fee, and has made the proper statement of unintentional delay.

The instant petition has been found to be in compliance with 37 C.F.R. §1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. §122(b)(2)(B)(i), filed with the original application papers, has been rescinded.

After this decision is mailed, the application will be forwarded to Files Repository.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 5

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NOV 0 5 2002

OFFICE OF PETITIONS

Kevin Hines
Suite 131
7413 Six Forks
Raleigh NC 27615

In re Application of
Hines, et al.
Application No. 10/176,328
Filed: June 19, 2002
Attorney Docket No. N/A
For: ATHLETIC EXCHANGE INFORMATION SYSTEM

DECISION GRANTING PETITION

This is a decision on the petition entitled, "PETITION TO ESTABLISH PRIOR RECEIPT IN THE PTO OF ITEM(S) CONSIDERED AS OMITTED BY THE PTO - RESPONSE TO "NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION," filed September 26, 2002, requesting, in effect, withdrawal of the Notice to File Omitted Item(s) in a Nonprovisional Nonprovisional Application (Notice). The petition will be treated under 37 CFR 1.53(e).

The application was deposited on June 19, 2002. On July 26, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioners that drawing figures 4b and 6 described in the specification appeared to have been omitted.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that drawing figures 4b and 6 be accorded a filing date of June 19, 2002 on the basis that 9 sheets of drawing figures, including drawing figures 4b and 6, were received in the Patent and Trademark Office (PTO) on June 19, 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 June 19, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 9 sheets of drawings. A review of the application file reveals that only 7 sheets of drawings are present.

The return postcard constitutes *prima facie* evidence that 9 sheets of drawing figures, including drawing figures 4b and 6, were filed on June 19, 2002. MPEP 503. Accordingly, the request is granted.

Pursuant to petitioner's authorization, the $130.00 petition fee will be refunded via a treasury check that will be scheduled shortly.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **June 19, 2002**, using the copy of drawing figures 4b and 6 submitted with the instant petition. Office records will be corrected to show that 9 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
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KEVIN HINES
105 SHALON CT
APEX NC 27502

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FEB 1 5 2006

OFFICE OF PETITIONS

In re Application of	:	
Kevin Hines	:	
Application No. 10/176,328	:	ON PETITION
Filed: June 19, 2002	:	
Title: Athletic Exchange Information System	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed September 16, 2005.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted.

The above-identified application became abandoned for failure to timely file a response to the non-final Office action mailed May 24, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under 37 CFR 1.136(a) were purchased. Accordingly, no reply having received, the above-identified application became abandoned on August 25, 2004. A Notice of Abandonment was mailed on June 23, 2005.

Petitioner states that he did not receive the May 24, 2004 Office action. The Office action was properly mailed to the correspondence address of record in effect at that time (7413 Six Forks, Suite 131, Raleigh NC). Petitioner did not file a Change of Address until December 20, 2004.

As set forth in MPEP 711.03(c)(I), a petition to withdraw the holding of abandonment is appropriate in those instances where an applicant contends that the application is not in fact abandoned. However, where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the **cause** of abandonment), the appropriate remedy is a petition to revive the abandoned application under 37 CFR 1.137(a) (unavoidable delay) or 37 CFR 1.137(b) (unintentional delay).

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR 1.17(l) - currently **$250** for a small entity; (3) a **showing** to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was **unavoidable**; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m) - currently **$750** for a small entity; (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 CFR 1.20(d)) required pursuant to paragraph (d) of this section.

Enclosed for petitioner's convenience are blank copies of Form PTO/SB/61 (unavoidable delay) and PTO/SB/64 (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
Attn: Office of Petitions

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: PTO/SB/61 (3 pages)
PTO/SB/64 (2 pages)
Statement of Privacy Act (1 page)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KEVIN HINES
105 SHALON CT
APEX NC 27502

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JUL 26 2006

OFFICE OF PETITIONS

In re Application of	:	
Kevin Hines	:	
Application No. 10/176,328	:	ON PETITION
Filed: June 19, 2002	:	
Title: Athletic Exchange Information System	:	

This is a decision on the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181, filed April 20, 2006.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted.

The above-identified application became abandoned for failure to timely file a response to the non-final Office action mailed May 24, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under 37 CFR 1.136(a) were purchased. Accordingly, no reply having received, the above-identified application became abandoned on August 25, 2004. A Notice of Abandonment was mailed on June 23, 2005. Applicant filed a petition to withdraw the holding of abandonment on September 16, 2005. The petition was dismissed in a decision mailed on February 15, 2006.

In his first petition, petitioner stated that he did not receive the May 24, 2004 Office action. However, the decision pointed out that the Office action was properly mailed to the correspondence address of record in effect at that time (7413 Six

Forks, Suite 131, Raleigh NC). Petitioner did not file a Change of Address until December 20, 2004.

On renewed petition, petitioner argues that the postal address company, Mail Box, Etc., to where petitioner's mail was being delivered (7413 Six Forks Rd, Suite 131, Raleigh NC), was sold to another company. According to petitioner, as a result of the sale, all mail sent to Mail Box, Etc. was returned to sender. Petitioner argues that due to the failure of Mail Box Etc. to notify him of this change, petitioner did not receive the Office action from the PTO.

Petitioner does not argue that the PTO mailed the Office action to an incorrect address. Similarly, petitioner does not argue that the PTO failed to process and enter a "Change of Address" that was timely mailed to the Office before the mailing of the May 24, 2004 Office action. Rather, on renewed petition, petitioner argues as to the **cause** of the abandonment, and places the blame on Mail Box, Etc.

As set forth in MPEP 711.03(c)(I), a petition to withdraw the holding of abandonment is appropriate in those instances where an applicant contends that the application is not in fact abandoned. However, where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the **cause** of abandonment), the appropriate remedy is a petition to revive the abandoned application under 37 CFR 1.137(a) (unavoidable delay) or 37 CFR 1.137(b) (unintentional delay).

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR 1.17(l) - currently **$250** for a small entity; (3) a **showing** to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was **unavoidable**; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m) - currently **$750** for a small entity; (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 CFR 1.20(d)) required pursuant to paragraph (d) of this section.

Enclosed for petitioner's convenience are blank copies of Form PTO/SB/61 (unavoidable delay) and PTO/SB/64 (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
Attn: Office of Petitions

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: PTO/SB/61 (3 pages)
PTO/SB/64 (2 pages)
Statement of Privacy Act (1 page)

PTO/SB/61 (10-05)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)	Docket Number (Optional)

First Named Inventor: Art Unit:

Application Number: Examiner:

Filed:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United Sates Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.

NOTE: A grantable petition requires the following items:

(1) Petition fee.
(2) Reply and/or issue fee.
(3) Terminal disclaimer with disclaimer fee-required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
(4) Adequate showing of the cause of unavoidable delay.

1. Petition fee

☐ Small entity – fee $_____ (37 CFR 1.17(l)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $_____ (37 CFR 1.17(l)).

2. Reply and/or fee

A The reply and/or fee to the above-noted Office action in the form of _____ (identify the type of reply):

☐ has been filed previously on _____ .

☐ is enclosed herewith.

B The issue fee of $ _____

☐ has been filed previously on _____ .

☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(a). 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 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	Date
Typed or printed name	Registration Number, if applicable
Address	Telephone Number
Address	

Enclosure
☐ Fee Payment
☐ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unavoidable delay
☐ _____

CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this correspondence is being:

☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

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 UNAVOIDABLY UNDER 37 CFR 1.137(a)

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.

Signature	Date
Typed or printed name	Registration Number, if applicable

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

(Please attach additional sheets if additional space is needed.)

PTO/SB/64 (10-05)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	Date
Typed or printed name	Registration Number, if applicable
Address	Telephone Number
Address	

Enclosures: ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other:_____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Hughes Electronics Corporation
Corporate Patents & Lincensing
Bldge R11 Mail Station A109
P O Box 956
El Segundo CA 90245-0956

In re Application of:
Dennis P. Connors
Application No. 10/176,351
Filed: June 19, 2002
For: **METHOD AND APPARATUS FOR MEDIUM ACCESS CONTROL FOR INTEGRATED SERVICES PACKET-SWITCHED SATELLITE NETWORKS**

DECISION
ON PETITION

This is a response to the Petition to Withdraw Holding of Abandonment, filed March 28, 2005.

This application became abandoned for failure to timely submit the issue fee due in response to the Notice of Allowance and Issue Fee Due mailed October 22, 2004. A Notice of Abandonment was mailed on February 28, 2005.

The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the Practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received", 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c), section II. 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.

Petitioner asserts that the Notice of Allowance mailed September 16, 2004 was never received. In support thereof, Petitioner attests that the Office communication (Notice of Allowance) was not received, and that a search of the contents of the file jacket and docket records reveal no evidence of receipt. Copies of the docket records have also been included to corroborate petitioner's claim.

The Notice of Abandonment mailed February 28, 2005 is hereby vacated and the holding of Abandonment withdrawn. Also, the Notice of Allowance and Issue Fee Due mailed October 22, 2004 is hereby vacated.

The petition is **GRANTED**.

Since it has been established that the Notice of Allowance was not received, it is presumed that Applicant also failed to receive the Notice of Allowability or examiner's comments on reasons for allowance. The application will be forwarded to the Technology Center's technical support staff for mailing of a new Notice of Allowance and Issue Fee Due, as well as a copy of the Notice of Allowability and a copy of the examiner's comments. The three (3) month non-extendable time period for paying the issue fee will be set to run from the mailing date of the Notices.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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)
6733695	2004-05-11	10176377	2002-06-21	033036.053

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	/Dana T. Hustins/	Date (YYYY-MM-DD)	2010-04-29
Name	Dana T. Hustins	Registration Number	62069

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.

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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
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In re Patent No. 6733695
Issue Date: May 11,2004
Application No. 10176377
Filed: June 21,2002
Attorney Docket No. 33036W053

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 29,2010 ,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 April 29,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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SMITH, GAMBRELL & RUSSELL
1130 CONNECTICUT AVENUE, N.W.,
SUITE 1130
WASHINGTON DC 20036

MAILED

JUN 15 2010

OFFICE OF PETITIONS

In re Patent No. 6,733,695	:	
Issue Date: May 11, 2004	:	
Application No. 10/176,377	:	ON PETITION
Filed: June 21, 2002	:	
Attorney Docket No. 33036W053	:	

This is a decision on the petition under 37 CFR 1.378(c), filed March 29, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is DISMISSED.

The petition is dismissed in view of the petition automatically granted by EFS on April 29, 2010.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DIW 08-02

Paper No. 4

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

COPY MAILED

AUG 2 6 2002

OFFICE OF PETITIONS

In re Application of	:	
Sjursen et al.	:	
Application No. 10/176,381	:	DECISION GRANTING PETITION
Filed: 20 June, 2002	:	
Atty's Docket No. TI-34678	:	

This is a decision on the petition under 37 CFR 1.10(c) filed on 8 July, 2002, requesting that the above-identified application be accorded a filing date of 20 June, 2002, rather than the presently accorded filing date of 21 June, 2002.

Petitioners allege that the application was deposited in Express Mail service on 20 June, 2002. In support, on 8 July, 2002, petitioners supplied a copy of Express Mail receipt No. EV035529646US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file). Although the "date-in" on the Express Mail label appears to be "06/30/02", a search of the USPTO's USPS Express Mail Information Database reveals that this Express Mail Label Number was accepted by the USPS on 20 June, 2002.

In view of the above, the petition is granted. No petition fee is due and none has been paid.

The application is being forwarded to Office of Initial Patent Examination for further processing with a filing date of **20 June, 2002**, and issuance of a corrected Filing Receipt.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 6

MACMILLAN, SOBANSKI & TODD, LLC
ONE MARITIME PLAZA - FOURTH FLOOR
720 WATER STREET
TOLEDO OH 43604

COPY MAILED

MAR 1 8 2003

OFFICE OF PETITIONS

In re Application of
Shuster, Rhoda, Fillion, and Zaslavskiy
Application No. 10/176,392
Filed: June 20, 2002
Attorney Docket No. 1-20334
Invention: CASE HARDENED JOURNAL CROSS FOR USE IN: A UNIVERSAL JOINT AND METHOD OF MANUFACTURING THE SAME

DECISION ON PETITION

This is in response to the petition under 37 CFR 1.47(a), filed February 3, 2003

The petition under 37 CFR 1.47(a) is **GRANTED**.

The instant petition was filed in response to the "Notice to File Missing Parts of Nonprovisional Application" (the "Notice") mailed July 24, 2002, which required an oath or declaration be filed, and filing and surcharge fees be remitted. The Notice set forth an extendable period for reply of two months from its mailing date. The instant petition was filed on February 3, 2003, along with a request for an extension of time within the fifth month.

Petitioner has established that, despite being presented with a complete copy of the application papers, inventor Zaslavskiy has refused to join in the prosecution of the application. 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.

Petitioner will be refunded $520.00 for the extension of time within the fourth month. Deposit account 13-0005 will be charged $130.00 for the instant petition fee.

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Otto Zaslavskiy
2510 Ocean Parkway
Brooklyn, NY 11235

In re Application of
Shuster, Rhoda, Fillion, Zaslavskiy
Application No. 10/176,392
Filed: June 20, 2002
Attorney Docket Number: 1-20334
For: CASE HARDENED JOURNAL CROSS FOR USE IN A UNIVERSAL JOINT AND METHOD OF MANUFACTURING SAME

LETTER

COPY MAILED
MAR 1 8 2003
OFFICE OF PETITIONS

Dear Mr. Zaslavskiy:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a joint inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Kenya A. McLaughlin at (703) 305-0010. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

MACMILLAN, SOBANSKI & TODD, LLC
ONE MARITIME PLAZA - FOURTH FLOOR
720 WATER STREET
TOLEDO OH 43604

UNITED STATES PATENT AND TRADEMARK OFFICE

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LOWE HAUPTMAN GILMAN & BERNER, LLP
SUITE 310
1700 DIAGONAL ROAD
ALEXANDRIA, VA 22314

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In re Application of	:	
Lee et al.	:	
Application No. 10/176,398	:	ON PETITION
Filed: June 21, 2002	:	
Attorney Docket No. 4504-057	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 20, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an 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) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JJGJr: 11-06

Paper No: ___

COPY MAILED

SEP 2 4 2007

OFFICE OF PETITIONS

SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, NW
Washington DC 20037-3213

In re Application of:	:	
Fukuda, et al.	:	
Patent No.: 6,914,591	:	
Issue Date: 5 July, 2005	:	
Application No. 10/176,406	:	ON PETITION
Filed: 21 June, 2002	:	
Attorney Docket No.: Q70704	:	

This is a decision on the request filed on 11 July, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The Office regrets the delay in addressing this matter, however, the instant petition was provided to the attorneys in the Office of Petitions only on this writing.

The request is **GRANTED** (upon the instant showing of the recordation of the assignments on 1 August, 2002 at Reel/Frame 013143/0133 to Pioneer Corporation and Shizuoka Pioneer Corporation; and then on 18 August, 2003, at Reel/Frame 014397/0458, the change of name of Shizuoka Pioneer Corporation to Pioneer Display Products Corporation.

[1] *See* MPEP 1309, subsection II; and Official Gazette of 22 June, 2004.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[2] 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.

OIPE JC180
SEP 24 2002
PATENT & TRADEMARK OFFICE

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

MORITA et al

Group Art Unit: 2834

Application No.: 10/176,407

Examiner: Not yet assigned

Filed: June 21, 2002

Attorney Dkt. No.: 59557.00002

For: EMBEDDED PERMANENT MAGNET TYPE INDUCTION MOTOR WHICH ALLOWS COIL EMBEDDING WORK TO BE EASILY PERFORMED

RESPONSE TO NOTICE TO FILE MISSING PARTS

Commissioner for Patents
Washington, D.C. 20231
ATTN - BOX MISSING PARTS

September 24, 2002

Sir:

In response to the Notice to File Missing Parts of Application dated July 24, 2002 (copy attached), the following are enclosed:

☒ $130.00 as payment of the surcharge for the Notice to File Missing Parts;

☒ $740.00 as payment for the filing fee, see chart below;

FOR:	NO. FILED	NO. EXTRA	SMALL ENTITY RATE	SMALL ENTITY FEE	OR	LARGE ENTITY RATE	LARGE ENTITY FEE
BASIC FEE				$ 370	OR		$ 740
TOTAL CLAIMS	5 - 20	= 0	x 9 =		OR	x 18	
INDEP CLAIMS	1 - 3	= 0	x 42 =		OR	x 84	
☐ MULTIPLE DEPENDENT CLAIMS			+140 =		OR	+280	
			TOTAL		OR	TOTAL	$740

☐ $_____ as payment for a _____ month extension of time;

☒ Originally-executed Declaration/Power of Attorney;

☐ Applicant qualifies for Small Entity Status;

☐ Verified Translation of the Application ; and

☐ Other. -

Applicants(s) are also enclosing the following:

☐ A Information Disclosure Statement with Form PTO-1449, _____ refs.;

☐ A certified copy of _____ Priority Application No. _____ filed _____;

☒ Originally executed Assignment with Form PTO-1595; and

☒ $40.00 as payment for the recordation of the Assignment.

The Examiner is respectfully requested to acknowledge that all of the requirements of 35 U.S.C. §111 have been met.

Please charge any fee deficiency or credit any overpayment to Counsel's Deposit Account No. 50-2222.

Respectfully submitted,

Douglas H. Goldhush
Registration No. 33,125

Customer Number 32294
SQUIRE, SANDERS & DEMPSEY LLP
14TH Floor
8000 Towers Crescent Drive
Tysons Corner, Virginia 22182-2700
Telephone: 703-720-7800
Fax: 703-720-7802

DHG:scc

Enclosures: Check No. 001631

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/176,407	06/21/2002	Ikuro Morita	107443-00026

CONFIRMATION NO. 8300

FORMALITIES LETTER

OC000000008504524

004372
ARENT FOX KINTNER PLOTKIN & KAHN
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

OIPE
SEP 2 4 2002
PATENT & TRADEMARK OFFICE

Date Mailed: 07/24/2002

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.
  Applicant must submit $ **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 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 **$870** for a Large Entity

- **$740** Statutory basic filing fee.
- **$130** Late oath or declaration Surcharge.

09/26/2002 MAHMED1 00000066 10176407

01 FC:101 740.00 OP
02 FC:105 130.00 OP

A copy of this notice MUST be returned with the reply.

C. Harrison

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 1 - ATTORNEY/APPLICANT COPY

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

MAURICE KELVIN NAIDOO
POSTNET SUITE 118
X2600, HOUGHTON
JOHANNESBURG 2041 ZA
SOUTH AFRICA

COPY MAILED

NOV 0 1 2002

OFFICE OF PETITIONS

In re Application of	:
Naidoo	:
Application No. 10/176,415	: DECISION GRANTING PETITION
Filed: June 20, 2002	:
For: PAEDIATRIC ELECTRONIC DEVICE	:

This is a decision on the petition filed September 24, 2002, requesting, in effect, that page 19 be entered as part of the original disclosure.

The petition is **granted**.

The application was filed on June 20, 2002. On July 24, 2002, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s)" stating that the application had been accorded a filing date of June 20, 2002, and advising applicants that page 19 appeared to have been omitted.

In response, the present petition was filed. Petitioner alleges page 19 was filed as part of the original application.

The Office has reviewed the priority documents submitted on June 20, 2002. The papers entitled "Second Written Opinion From I.P.E. Authority with Annexes," contains a page which appears identical to the page 19 at issue. A copy of the page has been made and, on petition, the copy will be construed as part of the original application for filing date purposes.

Petitioner has not proven that the actual application papers contained page 19, but only that page 19 was part of the priority papers and therefore the petition fee will not be refunded since a petition was necessary to transfer the paper from the priority document.

All the evidence present in the file has been carefully considered, but is not persuasive that page 19 was submitted *as part of the original application.*

The last portion of MPEP 513 states,

> Where there is a dispute as to the contents of correspondence submitted to the Office (e.g., an applicant asserts that three sheets of drawings were submitted under 37 CFR 1.10 with an application, but the Office records indicate receipt of only two sheets of drawings with the application) ... The Office will rely upon its official record of the contents of such correspondence in absence of convincing evidence (e.g. a postcard receipt ....

While petitioner apparently believes that page 19 was part of the specification, the file of application No. 10/176,415[1] shows that page 19 was not part of the specification since no page 19 is present in the specification in the file. An applicant alleging that a paper was filed in the USPTO and later misplaced has the burden of proving the allegation by a preponderance of the evidence. In this regard, declarations by individuals involved in the preparation and filing of the original application reciting their personal recollection or belief of what was contained in the application that they reviewed are generally not more persuasive of what was actually filed in the USPTO than the contents of the application file. Such declarations are usually made weeks or months after the actual events recited. In this case, the statement filed September 24, 2002, was made more than three months after the application was filed. Thus, the declaration does not have more probative value than the official government record of what was actual received in the USPTO on June 20, 2002.

It is for this reason that the USPTO has established a practice of providing a receipt for papers filed in the USPTO to any applicant desiring a receipt. The practice, which was has been in existence for many years and is well publicized, requires that any paper for which a receipt is desired be filed in the USPTO with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. See section 503, Manual Of Patent Examining Procedure (MPEP 503).

Petitioner has only demonstrated an intent to file page 19 as part of the specification and has not established that the page 19 was filed as part of the specification. A demonstration of an intent to include a page or pages does not establish the actual filing of such page(s).

For the above reasons, a copy of page 19 from the priority document, which was submitted with the original application, will be entered as part of the original specification. Also, for the above reasons, the petition fee will not be refunded, since the petition was necessary to enter a portion of the priority document as part of the specification.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of June 20, 2002, using the application papers filed on June 20, 2002, and a copy of page 19 of the specification filed on June 20, 2002, as part of a priority document.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The file contains the actual papers received and the file is an official government record prepared and maintained by disinterested USPTO employees as a part of their customary and usual duties.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 5

MAURICE KELVIN NAIDOO
POSTNET SUITE 118
X2600, HOUGHTON
JOHANNESBURG 2041 ZA
SOUTH AFRICA

COPY MAILED

DEC 2 0 2002

OFFICE OF PETITIONS

In re Application of	:
Naidoo	:
Application No. 10/176,415	: DECISION
Filed: June 20, 2002	:
For: PAEDIATRIC ELECTRONIC DEVICE	:

This is a corrected decision on the petition filed September 24, 2002, requesting, in effect, that page 19 be entered as part of the original disclosure.

The previous decision is **vacated** and the petition is **dismissed**.

Repeated attempts to charge the petition fee to the credit card number provided by petitioner have been unsuccessful. Petitioner should submit the $130 fee within two-months of the mailing date of this decision. Such payment may be made by check or using an alternate credit card.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

By facsimile: (703) 308-6916
Attn: Office of Petitions

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attached: Credit Card Authorization Form

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

MAURICE KELVIN NAIDOO
POSTNET SUITE 118
X2600, HOUGHTON
JOHANNESBURG 2041 ZA
SOUTH AFRICA

COPY MAILED

FEB 2 0 2003

OFFICE OF PETITIONS

In re Application of :
Naidoo :
Application No. 10/176,415 : DECISION GRANTING PETITION
Filed: June 20, 2002 :
For: PAEDIATRIC ELECTRONIC DEVICE :

This is a decision on the renewed petition filed February 14, 2003, requesting, in effect, that page 19 be entered as part of the original disclosure.

The petition is **granted**.

The application was filed on June 20, 2002. On July 24, 2002, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s)" stating that the application had been accorded a filing date of June 20, 2002, and advising applicants that page 19 appeared to have been omitted.

In response, petitioner alleges page 19 was filed as part of the original application.

The Office has reviewed the priority documents submitted on June 20, 2002. The papers entitled "Second Written Opinion From I.P.E. Authority with Annexes," contains a page which appears identical to the page 19 at issue. A copy of the page has been made and, on petition, the copy will be construed as part of the original application for filing date purposes.

Petitioner has not proven that the actual application papers contained page 19, but only that page 19 was part of the priority papers and therefore the petition fee will not be refunded since a petition was necessary to transfer the paper from the priority document.

All the evidence present in the file has been carefully considered, but is not persuasive that page 19 was submitted *as part of the original application.*

The last portion of MPEP 513 states,

> Where there is a dispute as to the contents of correspondence submitted to the Office (e.g., an applicant asserts that three sheets of drawings were submitted under 37 CFR 1.10 with an application, but the Office records indicate receipt of only two sheets of drawings with the application) ... The Office will rely upon its official record of the contents of such correspondence in absence of convincing evidence (e.g. a postcard receipt ....

While petitioner apparently believes that page 19 was part of the specification, the file of application No. 10/176,415[1] shows that page 19 was not part of the specification since no page 19 is present in the specification in the file. An applicant alleging that a paper was filed in the USPTO and later misplaced has the burden of proving the allegation by a preponderance of the evidence. In this regard, declarations by individuals involved in the preparation and filing of the original application reciting their personal recollection or belief of what was contained in the application that they reviewed are generally not more persuasive of what was actually filed in the USPTO than the contents of the application file. Such declarations are usually made weeks or months after the actual events recited. In this case, the statement filed September 24, 2002, was made more than three months after the application was filed. Thus, the declaration does not have more probative value than the official government record of what was actual received in the USPTO on June 20, 2002.

It is for this reason that the USPTO has established a practice of providing a receipt for papers filed in the USPTO to any applicant desiring a receipt. The practice, which was has been in existence for many years and is well publicized, requires that any paper for which a receipt is desired be filed in the USPTO with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. See section 503, Manual Of Patent Examining Procedure (MPEP 503).

Petitioner has only demonstrated an intent to file page 19 as part of the specification and has not established that the page 19 was filed as part of the specification. A demonstration of an intent to include a page or pages does not establish the actual filing of such page(s).

For the above reasons, a copy of page 19 from the priority document, which was submitted with the original application, will be entered as part of the original specification. Also, for the above reasons, the petition fee will not be refunded, since the petition was necessary to enter a portion of the priority document as part of the specification.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of June 20, 2002, using the application papers filed on June 20, 2002, and a copy of page 19 of the specification filed on June 20, 2002, as part of a priority document.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

---

[1] The file contains the actual papers received and the file is an official government record prepared and maintained by disinterested USPTO employees as a part of their customary and usual duties.

#5

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 5

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MAY 28 2003

OFFICE OF PETITIONS

Genencor International, Inc.
925 Page Mill Road
Palo Alto CA 94034-1013

In re Application of
Brian E. Jones et al.
Application No. 10/176,417
Filed: June 18, 2002
Attorney Docket No. GCX350USD2

DECISION GRANTING PETITION

This is a decision on the petition, filed November 15, 2002 requesting that the above-identified application, without drawings, be accorded a filing date of June 18, 2002.

The application was filed on June 18, 2002, without drawings.[1] Accordingly, on August 15, 2002, the Office of Initial Patent Examination 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 November 15, 2002, the present petition and one month of extension of time request were 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 June 18, 2002.

It has been PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).[2] Since the application was filed with at least one claim directed to a process or method, the application should have been treated as an application for which a drawing is not necessary and Office of Initial Patent Examination should have mailed a "Notice Of Omitted Item(s)." See MPEP § 601.01(f).

In view of the above, the Notice mailed August 15, 2002, is hereby withdrawn. The application is accorded a filing date of June 18, 2002, without drawings.

The petition is granted. The petitioner fee in the amount of $130.00 will be credited back to petitioner's deposit account no. 07-1048.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of June 18, 2002, and for an indication on the bib-data sheet that no sheets of drawings were present on filing.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1] 35 U.S.C. § 113 (first sentence) requires a drawing "where necessary for the understanding of the subject matter sought to be patented."

[2] MPEP 601.01(f).

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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Genencor International, Inc.
925 Page Mill Road
Palo Alto CA 94034-1013

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NOV 28 2005

OFFICE OF PETITIONS

In re Application of :
Brian E. JONES et al. :
Application No. 10/176,417 :
Filed: June 18, 2002 :
Attorney Docket No. GCX350USD2 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 3, 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 Notice of Non-Compliant Amendment mailed March 9, 2005, which set a period for reply of one (1) month or thirty (30) days, whichever is longer. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 10, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Non-Compliant Amendment mailed March 9, 2005 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 1656 for appropriate action on the concurrently filed amendment.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

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NOV 2 6 2008

OFFICE OF PETITIONS

In re Application of :
Michael P. Whitman :
Application No. 10/176,432 : ON PETITION
Filed: June 20, 2002 :
Attorney Docket No. 11443/120 :

This is a decision on the petition, filed August 26, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

This application became abandoned as a result of a 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 November 19, 2007, and no extension of time under the provisions of 37 CFR 1.136(a) was 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 January 20, 2008. *See* MPEP 1215.04. A Notice of Abandonment was subsequently mailed on September 4, 2008.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d).

While no response was actually filed in the present application to continue prosecution, petitioner indicates "the reply in the form of a continuation application is submitted herewith." The petition is not accompanied by a statement of express abandonment in favor of the filing of the continuing 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 continuing 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 satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $770; and (3) an adequate statement of unintentional delay.

This application is being revived solely for the purpose of continuity with the continuation application. As continuity has been established by revival of this application, this application is again abandonment in favor of the continuing application filed August 26, 2008.

It is noted that petitioner erroneously uploaded the continuing application filed August 26, 2008 as a part of the present petition. A copy of the application papers filed August 26, 2008, intended as the new continuing application, will be moved from the present application and assigned a new application number, as a one time courtesy. Petitioner is reminded to submit new applications appropriately.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

#6
DW

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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MAR 26 2004

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MAR 26 2004

OFFICE OF THE DIRECTOR
TC 3600

David M. Levin
Postal Drawer 4195
Sarasota, FL 34230

In re Application of
David M. Levin
Application No. 10/176,433
Filed: June 19, 2002
For: VIBRATING DEVICE FOR REPELLING BIRDS FROM BOATS

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to applicant's petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office on January 12, 2004

The petition is **GRANTED** in view of the following evidence of timely filing :

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____ which identifies the application by serial number and the type of Response that was filed on that date.

☒ Certificate of Mailing/Transmission signed on August 22, 2003. and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

cps/2/26/04

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MILBANK, TWEED, HADLEY & MCCLOY LLP
1 CHASE MANHATTAN PLAZA
NEW YORK NY 10005-1413

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SEP 15 2005

OFFICE OF PETITIONS

In re Application of	:	
Neiman et al.	:	
Application No. 10/176,436	:	DECISION GRANTING PETITION
Filed: June 20, 2002	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 36287-02501	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed August 25, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed provisional Application No. 60/355,274, filed August 25, 2005, as set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after expiration of the period specified by 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional application as required by 37 1.78(a)(5)(iii). Additionally, the instant nonprovisional application was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/355,274, which was filed on February 8, 2002, for which priority is claimed.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR

1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the above-noted, prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Paralegal Liana Chase at (571) 272-3206. Any other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 2195 for appropriate action on the amendment submitted August 25, 2005, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/355,274.

Liana Chase
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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APR 12 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

WINSTON & STRAWN
PATENT DEPARTMENT
1400 L STREET, N.W.
WASHINGTON DC 20005-3502

In re Application of
Claus Bork et al.
Application No. 10/176,468
Filed: June 20, 2002
For: CONSTRUCTION ELEMENT FOR TEMPORARILY CLOSING AN OPENING IN A WALL IN A BUILDING BEING CONSTRUCTED

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to the Petition to Withdraw the Holding of Abandonment filed in the United States Patent and Trademark Office on January 7, 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 21, 2003 has been found and matched with the application.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response and then to the examiner for prompt action.

SNM/mjz: 4/8/04

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 5

KENYON & KENYON
ONE BROADWAY
NEW YORK, NY 10004

COPY MAILED

MAR 0 6 2003

OFFICE OF PETITIONS

In re Application of	:	
Ke Long et al	:	
Application No. 10/176,496	:	NOTICE
Filed: June 21, 2002	:	
Attorney Docket No. 10020/23701	:	

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 2811.

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
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WASHINGTON, DC 20231
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MAIL Paper No. 9

AUG 04 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

In re Application of :
HOSPODOR, ANDREW D. :
Application No. 10/176,498 :
Filed: June 21, 2002 :
For: PROVIDING STREAMING MEDIA DATA :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request to Withdraw as Attorney/Agent of record filed on July 11, 2003.

A grantable request to withdraw as attorney/agent of record must do the following:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above.

Accordingly, the request is **GRANTED**.

All of the attorneys/agents listed are granted the request for withdraw.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: MATTHEW C. LAPPLE
PAUL, HASTINGS, JANOFSKY, & WALKER LLP
695 TOWN CENTER DRIVE
SEVENTEENTH FLOOR
COSTA MESA, CA 92626

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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WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA, PA 19103

COPY MAILED

FEB 18 2005

OFFICE OF PETITIONS

In re Application of	:	
Charles Pridmore, et al.	:	
Application No. 10/176,500	:	ON PETITION
Filed: June 21, 2002	:	
Attorney Docket No. CRNT-0081	:	

This is a decision on the petition, filed February 10, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 7, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2832 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).

20 MAY 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Andrew D. Gathy
Sierra Patent Group
P.O. Box 6149
Stateline, Neveda 89449

In re Application of
SELAND et al.
U.S. Application No. 10/176,502
PCT No.: PCT/NO00/00437
Int. Filing Date: 20 December 2000
Priority Date: 22 December 1999
Attorney Docket No.: PRO-005
For: LIGHTING DEVICE FOR INSTALLATION IN PLANE SURFACE

DECISION

This is a response to "Petition to Consider Application as Being Filed under 35 U.S.C. 371" filed 09 December 2002, which is being treated as a Petition under 37 CFR 1.181. The initial papers filed 30 September 2002 were processed as a filing under 35 U.S.C. 111(a). For the reasons discussed below, the application will be converted to a national stage filing of PCT/NO00/00437.

BACKGROUND

On 20 December 2000, applicants filed international application PCT/NO00/00437 which claimed a priority date of 22 December 1999. A Demand was filed with the International Preliminary Examining Authority prior to the expiration of 19 months from the priority date, and as a result the deadline for payment of the basic national fee was extended to expire 30 months from the priority date, 22 June 2002.

On 21 June 2002, applicants filed the present application. The application papers filed therewith included a "Transmittal letter for U.S. National Patent Application": a check in the amount of $904 (the basic national filing fee of $520, independent claims fee of $42, and extra claims fee of $342); an executed declaration; 23 pages of specification, 14 pages of claims, and an abstract; and an drawing sheets. The application was processed as a filing under 35 U.S.C. 111(a).

On 22 August 2002, applicants filed an executed declaration.

On 09 December 2002, applicants filed "Petition to Consider Application as Being Filed under 35 U.S.C. 371."

DISCUSSION

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). See 37 CFR 1.495(g):

> The documents and fees submitted . . . must be clearly identified as a submission to enter the national stage under 35 U.S.C. 371, otherwise the submission will be considered as being made under 35 U.S.C. 111.

On 21 June 2002, applicants submitted a transmittal letter entitled "Transmittal letter for U.S. National Patent Application." Additionally, applicants stated in the transmittal letter that "[t]his patent application is filed pursuant to 37 U.S.C. 371 and 37 CFR 1.495." This statement is consistent with an intent to enter the national stage of the PCT under 35 U.S.C. 371. Accordingly, the original papers deposited on 21 June 2002 will be treated as a filing under 35 U.S.C. 371.

Accordingly, the filing receipt issued on this application, which did not indicate a filing under 35 U.S.C. 371, was in error and is hereby vacated.

CONCLUSION

The petition under 37 CFR 1.181 is **GRANTED** and the application will be converted from a 35 U.S.C. 111 filing to a national stage application under 35 U.S.C. 371.

This application has an international filing date of 20 December 2000 under 35 U.S.C. 363 and a 35 U.S.C. 371(c) date of 22 August, 2002.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision, that is, for mailing of a Notification of Acceptance of Application (Form PCT/DO/EO/903) and Official Filing Receipt which identifies this application as a national stage application of PCT/NO00/00437.

Thereafter, the application will be forwarded to Art Unit 2875.

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone 703-308-6314
Fax: 703-308-6459

20 MAY 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Andrew D. Gathy
Sierra Patent Group
P.O. Box 6149
Stateline, Neveda 89449

In re Application of	:	
SELAND et al.	:	
U.S. Application No. 10/176,502	:	DECISION
PCT No.: PCT/NO00/00437	:	
Int. Filing Date: 20 December 2000	:	
Priority Date: 22 December 1999	:	
Attorney Docket No.: PRO-005	:	
For: LIGHTING DEVICE FOR INSTALLATION IN PLANE SURFACE	:	

This is a response to "Petition to Consider Application as Being Filed under 35 U.S.C. 371" filed 09 December 2002, which is being treated as a Petition under 37 CFR 1.181. The initial papers filed 30 September 2002 were processed as a filing under 35 U.S.C. 111(a). For the reasons discussed below, the application will be converted to a national stage filing of PCT/NO00/00437.

BACKGROUND

On 20 December 2000, applicants filed international application PCT/NO00/00437 which claimed a priority date of 22 December 1999. A Demand was filed with the International Preliminary Examining Authority prior to the expiration of 19 months from the priority date, and as a result the deadline for payment of the basic national fee was extended to expire 30 months from the priority date, 22 June 2002.

On 21 June 2002, applicants filed the present application. The application papers filed therewith included a "Transmittal letter for U.S. National Patent Application": a check in the amount of $904 (the basic national filing fee of $520, independent claims fee of $42, and extra claims fee of $342); an executed declaration; 23 pages of specification, 14 pages of claims, and an abstract; and an drawing sheets. The application was processed as a filing under 35 U.S.C. 111(a).

On 22 August 2002, applicants filed an executed declaration.

On 09 December 2002, applicants filed "Petition to Consider Application as Being Filed under 35 U.S.C. 371."

DISCUSSION

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). See 37 CFR 1.495(g):

> The documents and fees submitted . . . must be clearly identified as a submission to enter the national stage under 35 U.S.C. 371, otherwise the submission will be considered as being made under 35 U.S.C. 111.

On 21 June 2002, applicants submitted a transmittal letter entitled "Transmittal letter for U.S. National Patent Application." Additionally, applicants stated in the transmittal letter that "[t]his patent application is filed pursuant to 37 U.S.C. 371 and 37 CFR 1.495." This statement is consistent with an intent to enter the national stage of the PCT under 35 U.S.C. 371. Accordingly, the original papers deposited on 21 June 2002 will be treated as a filing under 35 U.S.C. 371.

Accordingly, the filing receipt issued on this application, which did not indicate a filing under 35 U.S.C. 371, was in error and is hereby vacated.

CONCLUSION

The petition under 37 CFR 1.181 is **GRANTED** and the application will be converted from a 35 U.S.C. 111 filing to a national stage application under 35 U.S.C. 371.

This application has an international filing date of 20 December 2000 under 35 U.S.C. 363 and a 35 U.S.C. 371(c) date of 22 August, 2002.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision, that is, for mailing of a Notification of Acceptance of Application (Form PCT/DO/EO/903) and Official Filing Receipt which identifies this application as a national stage application of PCT/NO00/00437.

Thereafter, the application will be forwarded to Art Unit 2875.

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone 703-308-6314
Fax: 703-308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Washington, D.C. 20231
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Paper No. 7

RAE-VENTER LAW GROUP, P.C.
P.O. BOX 1898
MONTEREY CA 93942-1898

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FEB 2 5 2003

OFFICE OF PETITIONS

In re Application of :
Ralph W. Emerson :
Application No. 10/176,512 :
Filed: June 20, 2002 :
Attorney Docket No. NACH.002.01US :
Title: METHODS AND COMPOSITIONS :
FOR APPLYING ESSENTIAL OILS AND :
NATURALLY OCCURRING :
COMPOUNDS TO PLANTS TO :
ACTIVATE ENDOGENOUS PLANT :
PATHOGEN DEFENSE PATHWAYS :

DECISION ON PETITION
UNDER 37 C.F.R. §1.47(b)

This is in response to the petition under 37 CFR §1.47(b)[1], filed November 29, 2002[2].

The above-identified application was filed on June 20, 2002, with an unexecuted oath or declaration, and identifying Ralph W. Emerson as the sole inventor. On July 22, 2002, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted", requiring an executed oath or declaration in compliance with 37 CFR §1.63, and a surcharge for the late filing of the oath or declaration. The Notice further indicated that page two (2) of the specification appeared to have been omitted.

---

1 A grantable petition under 37 CFR §1.47(b) requires:
(1) The petition fee;
(2) a surcharge if the petition was not filed at the time of filing of the application;
(3) a statement of the last known address of each of the non-signing inventors;
(4) proof that a copy of the application was sent or given to each of the non-signing inventors for review;
(5) proof that each of the non-signing inventors refused to sign;
(6) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;
(7) proof of irreparable damage, and;
(8) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and 37 CFR §1.63.

2 The petition contains a certificate of mailing dated November 22, 2002.

In reply, applicant filed the petition, along with the associated fee, a two-month extension of time to make timely this reply, a statement of facts set forth by Jeffery Banks, Director of the Banks Group, LLC, copies of several letters which were sent to the non-signing inventor, a copy of a Federal Express mailing label, a copy of the tracking results, and a declaration executed by Mr. Banks.

With the petition, the petitioner has provided the last known address of the inventor, submitted proof that a complete copy of the application was sent to the inventor at his last known address and that no reply has been received. Petitioner has also set forth proof of a sufficient proprietary interest via the submission of the assignment documents and by establishing the assignee's right to take action, and has set forth proof of irreparable damage. Furthermore, the assignee has established the right to take action, pursuant to MPEP 324.

The petition under 37 C.F.R. §1.47(b) 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.

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, not the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the application will be forwarded to Technology Center 1600 for further processing.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.

Paul Shanoski
Attorney
Office of Petitions
United States Patent and Trademark Office

Beverly Flanagan
Supervisory Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

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Commissioner for Patents
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Washington, D.C. 20231
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Ralph W. Emerson
3204 Shelter Cove Ave.
Davis, CA 95616

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MAR 1 3 2003
TECH CENTER 1600/2900

In re Application of
Ralph W. Emerson
Application No. 10/176,512
Filed: June 20, 2002
Attorney Docket No. NACH.002.01US
Title: METHODS AND COMPOSITIONS FOR APPLYING ESSENTIAL OILS AND NATURALLY OCCURRING COMPOUNDS TO PLANTS TO ACTIVATE ENDOGENOUS PLANT PATHOGEN DEFENSE PATHWAYS

Dear Mr. Emerson:

You are named as the inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as 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 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, the agent of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63. Telephone inquiries regarding this communication should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Paul Shanoski
Attorney
Office of Petitions
United States Patent and Trademark Office

Beverly Flanagan
Supervisory Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

RAE-VENTER LAW GROUP, P.C.
P.O. BOX 1898
MONTEREY CA 93942-1898

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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

WORKMAN NYDEGGER (F/K/A WORKMAN NYDEGGER & SEELEY)
60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY UT 84111

MAIL

MAY 0 3 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of Som Sikdar Application No. 10/176,516 Filed: June 21, 2002 For: SYSTEM, ANALYZER, AND METHOD FOR SYNCHRONIZING A DISTRIBUTED SYSTEM	)))))	DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as Attorney/Agent of record filed on May 19, 2003.

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(s) is/are **DISMISSED AS MOOT**.

Attorneys requesting withdraw are not of record due to a Revocation of Power of Attorney executed by the Assignee filed June 16, 2003.

All future communications from the Office will continue to be directed to the address listed above until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

CC: Fenwick & West LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

RAYMOND A. MILLER
PEPPER HAMILTON, LLP
ONE MELLON CENTER, 50TH FLOOR
500 GRANT STREET
PITTSBURGH, PA 15219

COPY MAILED
AUG 13 2004
OFFICE OF PETITIONS

In re Application of	:	
Burstein et al.	:	
Application No. 10/176,534	:	ON PETITION
Filed: June 24, 2002	:	
Attorney Docket No. 122467.1201	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 27, 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. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely reply to the non-final Office action mailed August 20, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on November 21, 2003. A Notice of Abandonment was mailed April 29, 2004.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.[2]

---

[1] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

[2] See MPEP 711.03(c)(III)(C) and (D).

The instant petition lacks items (1) and (2).

In regard to item (1), petitioner has failed to submit a proper reply to the outstanding non-final Office action. Petitioner should submit an argument pointing out disagreements with each of the examiner's contentions and discuss the references applied against the claims. Petitioner should explain how the claims avoid the references or distinguish from them. The reply submitted must comply with 37 CFR 1.111.

In regard to item (2), petitioner stated on the petition that a $665.00 check was submitted for payment of the petition fee. After a review of USPTO financial records, it does not appear that such a check was submitted. Nevertheless, petitioner also gave authorization to charge the petition fee to deposit account no. 05-0426. However, the deposit account listed had insufficient funds to cover the petition fee. On August 13, 2003, there was only $9.00 in the account.

Accordingly, petitioner must comply with both of the above requirements to revive the above-identified application.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: 2011 South Clark Place
Crystal Plaza 1 Lobby
Room 1B03
Arlington, VA 22202

The centralized facsimile number is **(703) 872-9306.**

Telephone inquiries should be directed to the undersigned at (703) 306-0482. Any telephone inquiries after approximately **September 24, 2004** should be directed to (571) 272-3282.

Liana Chase

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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RAYMOND A. MILLER
PEPPER HAMILTON, LLP
ONE MELLON CENTER, 50TH FLOOR
PITTSBURGH, PA 15219

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Burstein et al.	:	
Application No. 10/176,534	:	
Filed: June 24, 2002	:	
Attorney Docket No. 122467.1201	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed October 1, 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 August 20, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on November 21, 2003. A Notice of Abandonment was mailed April 28, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

This matter is now 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

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OBLON SPIVAK MCCLELLAND
MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Yuki Amano et al :
Application No. 10/176,547 :
Filed: June 24, 2002 :
Attorney Docket No. 224477US0CONT :

This is a decision on the petition, filed July 1, 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 22, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (703) 306-5685.

This matter is being referred to Technology Center AU 1712 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date : July 1, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Yuki Amano et al
Application No. : 10/176,547
Filed : June 24, 2002

The above-identified application has been assigned Patent No. 6,759,451 and an issue date of July 6, 2004.

It is hereby directed that this application be withdrawn from issue at the request of the applicants.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of July 6, 2004:

> "All reference to Patent No. 6,759,451 to Yuki Amano et al of Yokkaichi-shi, JAPAN for SURFACE-MODIFIED INORGANIC OXIDE POWDER, PROCESS FOR PRODUCTING THE SAME, AND USE THEREOF appearing in the Official Gazette of July 6, 2004 should be deleted since no patent was granted."

Wan Laymon
Wan Laymon
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, Crystal Park 3-910

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MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

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OBLON, SPIVAK, McCLELLAND
MAIER & NEUSTADT, P.C.
DOCKETING DEPT.
Initials/Date Docketed: 7/6/04
Type of Resp(s):
Due Date(s):

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OFFICE OF PETITIONS

In re Application of
Yuki Amano et al
Application No. 10/176,547
Filed: June 24, 2002
Attorney Docket No. 224477US0CONT

ON PETITION

This is a decision on the petition, filed July 1, 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 22, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (703) 306-5685.

This matter is being referred to Technology Center AU 1712 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

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).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JJGJR.: 08-07

Paper No: __

SMITH, GAMBRELL & RUSSELL
SUITE 3100, PROMENADE II
1230 PEACHTREE STREET, N.E.
ATLANTA GA 30309-3592

COPY MAILED
SEP 04 2007
OFFICE OF PETITIONS

In re Application of :
Schultheiss. :
Application No.: 10/176,647 :
Filing Date: 24 June, 2002 :
Attorney Docket No. (None) :

DECISION

This is a decision on the petition filed on 15 December, 2006, to withdraw the holding of abandonment and considered under 37 C.F.R. §1.181.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.[1]

The Revocation/Power of Attorney filed on 15 December, 2006, is accepted and acknowledged.

For the reasons set forth below the petition as considered under 37 C.F.R. §1.181 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

[1] NOTE: Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected. Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.

reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181."

(If Petitioner is unable to present even a satisfactory showing to support a petition under 37 C.F.R. §1.137(a), and Petitioner's only alternative will be to file a petition under 37 C.F.R. §1.137(b).)

(2) Thereafter, there will be no further reconsideration of this matter.[2]

BACKGROUND

The record reflects that:

- prior Counsel failed to reply timely and properly to the Restriction Requirement mailed on 22 April, 2005, with three- (3-) month stated reply due absent an extension of time on or before 22 July, 2005;
- the application went abandoned by operation of law after midnight on 22 July, 2005;
- the Office mailed the Notice of Abandonment on 2 November, 2005;
- on 26 October, 2006, more than thirteen (13) months after the Office mailed the Notice of Abandonment, Petitioner filed the instant petition, and averred therein, *inter alia*, that prior Counsel timely and properly filed a reply to the Office action in question, and provided therewith a copy thereof in the form of an Election (filed over a Monday, 24 October, 2005, certificate of mailing) accompanied by a request and fee for a three- (3-) month extension of time (which was charged)–that would make timely the reply–notably, however, the instant petition was not filed within two months of the act complained of as required under 37 C.F.R. §1.181;
- because Petitioner herein appears not to have been Counsel of Record at the time of abandonment, Petitioner herein will not be the person to make the showing of unavoidable delay or the statement/showing of unintentional delay, and must provide such a statement/showing from prior Counsel or the proper officer of the averred assignee at the time of abandonment and the Notice thereof.

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[2] For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Louden, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894). An invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R.§§1.181, 182, 183.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

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[3] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[4]

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.[5]

Delays in responding properly raise the question whether delays are unavoidable.[6] 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).[7]

And the Petitioner must be diligent in attending to the matter.[8] 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.[9]))

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[4] 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.

[5] 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.

[6] 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).

[7] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[8] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[9] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

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.[10]

The commentary at MPEP §711.03(c) provides:

* * *

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), * (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. §1.8(b) and MPEP § 512. As stated in 37 C.F.R §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal

[10] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

> knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).
>
> 37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.
>
> * * *

Moreover, the regulation places upon Petitioner a diligence requirement to seek relief within two (2) months of the act complained of.

It appears that Petitioner has not satisfied and cannot satisfy the showing required.

CONCLUSION

Because it appears that Petitioner has not satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Petitioner may wish to file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay. (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply (the amendment), the petition fee, and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

Further correspondence with respect to this matter should be addressed as follows:[11]

By mail: Commissioner for Patents[12]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[13]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[11] On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. The old FAX number no longer is in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

[12] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

[13] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

In re Application of	:	
Schultheiss	:	
Application No. 10/176,647	:	DECISION
Filed: 24 June, 2002	:	
Attorney Docket No. 69643.001701	:	

This is a decision on the petition filed on 5 October, 2007, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to intentional delay.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- prior Counsel failed to reply timely and properly to the Restriction Requirement mailed on 22 April, 2005, with three- (3-) month stated reply due absent an extension of time on or before 22 July, 2005;
- the application went abandoned by operation of law after midnight on 22 July, 2005;
- the Office mailed the Notice of Abandonment on 2 November, 2005;

- on 26 October, 2006, Petitioner filed the original petition under 37 C.F.R. §1.181, and averred therein, *inter alia*, that prior Counsel timely and properly filed a reply to the Office action in question, and provided therewith a copy thereof in the form of an Election (filed over a Monday, 24 October, 2005, certificate of mailing) accompanied by a request and fee for a three- (3-) month extension of time (which was charged)–that would make timely the reply–notably, however, the petition failed by more than 10 months to satisfy the non-extendable timeliness requirements of the regulations at 37 C.F.R. §1.181, and so the petition was dismissed on 4 September, 2007;

- the instant petition, signed by the averred assignee (with Certificate under 37 C.F.R. §3.73(b)), seeks to overcome not only the prior deficiencies but also the showing requirement under 37 C.F.R. §1.137(b) by one in a position to make the statement as to the nature of the delay at the time of abandonment—and so the petition with fee, the reply in the form of an election, and the statement of unintentional delay have been presented.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

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[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

See specifically, the regulations at 37 C.F.R. §10.18.

[3] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[5] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[6]

And the Petitioner must be diligent in attending to the matter.[7] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

As to the Allegations
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate—a terminal disclaimer and fee.

It appears that Petitioner has satisfied the requirements of the regulation.

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[4] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[5] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[6] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[7] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[8] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

CONCLUSION

The instant petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Technology Center AU 3737 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Technology Center/AU in response to this decision—and it is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[9]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[9] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OBLON SPIVAK McCLELLAND
MAIER & NEUSTADT PC
1940 DUKE STREET
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of	:
Katsumi Suzuki et al	:
Application No. 10/176,683	: DECISION GRANTING PETITION
Filed: June 24, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 224710US0	:

This is a decision on the petition, filed March 23, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 23, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 1773 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JOSEPH N. BREAUX
SUITE A
10630 N. OAK HILLS PKWY.
BATON ROUGE, LA 70810

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AUG 0 5 2005

OFFICE OF PETITIONS

In re Application of :
Robert R. Reed, et al. :
Application No. 10/176,730 :
Filed: June 21, 2002 :
Attorney Docket No. 01-05264 :

ON PETITION

This is a decision on the petition, filed March 24, 2005, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The application became abandoned for a failure to reply in a timely manner to the non-final Office action mailed July 2, 2003. A Notice of Abandonment was mailed on June 24, 2004. On March 24, 2005, the present petition was filed.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of William David Kiesel appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. However, if Mr. Kiesel desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

The petition is found to comply with the requirements of 37 CFR 1.137(b). Accordingly, the petition is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

The application file is being forwarded to Technology Center AU 2632 for consideration of the amendment filed March 24, 2005.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: WILLIAM DAVID KIESEL
ROY, KIESEL, KEEGAN & DENICOLA
2355 DRUSILLA LANE
P.O. BOX 15928
BATON ROUGE, LA 70895

10176737

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20060505

DATE : May 5, 2006

TO SPE OF : ART UNIT 1714

SUBJECT : Request for Certificate of Correction on Patent No.: 6727306

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: Vasu Jagannathan **Art Unit** 1714

UNITED STATES PATENT AND TRADEMARK OFFICE CERTIFICATE

Patent No. 6,727,306 Patented: April 27, 2004

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without any deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

Walter Lee Edwards, Harrisburg, NC (US)
Robert Joseph Schiavone, Matthews, NC (US)
Sharon Sue Griffith, Charlotte, NC (US)

Vasu Jagannathan
Supervisory Patent Examiner
Art Unit 1714

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MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

Mail Date: 04/20/2010

Applicant	: Jeffrey L. Kodosky	: DECISION ON REQUEST FOR
Patent Number	: 7594220	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/176,739	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/21/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1785** 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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FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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OFFICE OF PETITIONS

In re Application of	:	
Whitehurst et al.	:	
Application No. 10/176,743	:	LETTER REGARDING
Filed: June 20, 2002	:	PATENT TERM ADJUSTMENT
Atty Docket No. 17991-034001	:	
/AB202U	:	

This is in response to the LETTER REGARDING PATENT TERM ADJUSTMENT PURSUANT TO COMMENT 43 OF THE FINAL RULE filed February 5, 2007. Applicants request review of the initial determination of patent term adjustment under 35 U.S.C. 154(b) as it pertains to the Office's receipt of an Information Disclosure Statement after a response after non-final action.

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 **five hundred seventeen (517)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On November 27, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 643 days.

A review of the application history reveals that after filing a response on April 24, 2006 on July 10, 2006, applicants filed an information disclosure statement (IDS). In addition, after filing response on September 28, 2006 on November 16, 2006, applicants filed an IDS.

37 C.F.R. § 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.

37 C.F.R. § 1.704(d) provides that:

> A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

A review of the IDSs filed July 10, 2006 and November 16, 2006 reveals that neither included a § 1.704(d) statement. In addition, neither was expressly requested by the examiner.

In view thereof, a reduction of 77 days should have been entered for the IDS filed July 10, 2006 (for the period from April 25, 2006 to July 10, 2006) and a reduction of 49 days should have entered for the IDS filed November 16, 2006 (for the period from September 29, 2006 to November 16, 2006).

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is 517 days.

As this letter was submitted as an advisement to the Office of an error in Patentee's favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks patentee for their good faith and candor in bringing this to the attention of the Office.

The application is being forwarded to the Office of Patent Publication for timely issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

Day : Monday
Date: 3/19/2007

PALM INTRANET

Time: 10:26:57

PTA Calculations for Application: 10/176743			
Application Filing Date:	06/20/2002	PTO Delay (PTO):	695
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	52
Post-Issue Petitions:	0	Total PTA (days):	517
PTO Delay Adjustment:	-126		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
70	03/19/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		49	
69	03/19/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		77	
48	11/27/2006	MAIL NOTICE OF ALLOWANCE			
47	11/22/2006	ISSUE REVISION COMPLETED			
46	11/22/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
45	11/20/2006	NOTICE OF ALLOWABILITY			
44	07/10/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
43	09/29/2006	DATE FORWARDED TO EXAMINER			
42	09/28/2006	RESPONSE AFTER NON-FINAL ACTION			
41	07/10/2006	REFERENCE CAPTURE ON IDS			
40	07/10/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
39	07/21/2006	MAIL NON-FINAL REJECTION			
38	07/19/2006	NON-FINAL REJECTION			
37	01/09/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
36	04/24/2006	NEW OR ADDITIONAL DRAWING FILED			
35	05/09/2006	DATE FORWARDED TO EXAMINER			
34	04/24/2006	RESPONSE AFTER NON-FINAL ACTION		5	32
33	02/13/2006	CORRESPONDENCE ADDRESS CHANGE			
32	01/19/2006	MAIL NON-FINAL REJECTION			
31	01/09/2006	REFERENCE CAPTURE ON IDS			
30	01/09/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		45	24
29	01/17/2006	NON-FINAL REJECTION			

28	12/14/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
27	12/14/2005	REFERENCE CAPTURE ON IDS			
26	12/14/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
25	12/05/2005	DATE FORWARDED TO EXAMINER			
24	11/25/2005	RESPONSE AFTER NON-FINAL ACTION		2	20
23	12/01/2005	CORRESPONDENCE ADDRESS CHANGE			
22	12/01/2005	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
21	10/06/2005	CASE DOCKETED TO EXAMINER IN GAU			
20	08/23/2005	MAIL NON-FINAL REJECTION			
19	08/22/2005	NON-FINAL REJECTION			
18	01/26/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
17	06/16/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
16	08/11/2005	DATE FORWARDED TO EXAMINER			
15	08/02/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
14	07/15/2005	MAIL RESTRICTION REQUIREMENT	695		-1
13	07/14/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
12	06/15/2005	CASE DOCKETED TO EXAMINER IN GAU			
11	06/10/2003	RESCIND NONPUBLICATION REQUEST FOR PRE GRANT PUBLICATION			
10	03/30/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
9	01/26/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	06/16/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	08/10/2002	CASE DOCKETED TO EXAMINER IN GAU			
6	08/02/2002	APPLICATION DISPATCHED FROM OIPE			
5	07/31/2002	APPLICATION IS NOW COMPLETE			
3	07/08/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	07/05/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	06/20/2002	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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OFFICE OF PETITIONS

CARSTENS & CAHOON, LLP
PO BOX 802334
DALLAS TX 75380

In re Application of	:	
Barbara Myatt	:	
Application No. 10/176,745	:	DECISION GRANTING PETITION
Filed: June 21, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. CCSI1.00104	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 17, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection mailed May 28, 2004, 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 3653 to consider the reply received September 17, 2007.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
12400 Wilshire Boulevard, 7th Floor
Los Angeles CA 90025-1026

In re Application of	:	
HASTINGS, et al.	:	
Application No. 10/176,766	:	DECISION ON PETITION
Filed: June 20, 2002	:	TO WITHDRAW
Attorney Docket No. 005306.P087	:	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 31, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Marina Portnova has been revoked by the assignee of the patent application on September 5, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Monica A. Graves at 571-272-7253.

Amelia Au
Petitions Examiner
Office of Petitions

cc: **Campbell Stephenson Asocolese LLP**
4807 Spicewood Spring Road
Bldg.4, Suite 201
Austin, TX 78759

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/176,766	06/20/2002	Mark Hastings	005306.P087

CONFIRMATION NO. 3705

OC000000020615926

Sheryl Sue Holloway
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

Date Mailed: 09/28/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/05/2006.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/176,766	06/20/2002	Mark Hastings	005306.P087

CONFIRMATION NO. 3705

OC000000020615932

60975
CSA LLP
4807 SPICEWOOD SPRINGS RD.
BLDG. 4, SUITE 201
AUSTIN, TX 78759

Date Mailed: 09/28/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/05/2006.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

MONICA A GRAVES
OP (571) 272-7253

ATTORNEY/APPLICANT COPY

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/176,791	06/20/2002	Bernhard M. Wehrle-Haller	50275/002001	5564

21559 7590 06/17/2005

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON, MA 02110

EXAMINER
SNEDDEN, SHERIDAN

ART UNIT	PAPER NUMBER
1653	

DATE MAILED: 06/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.

EXAMINER
Jon P Weber

ART UNIT	PAPER
1653	20050615

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents

The decision on the petition for unintentionally delayed priority claim filed 06 June 2005 in the above entitled application is as follows:

☐ Delay in Prosecution Held Unavoidable (35 USC 133),

Petition Granted _____

☐ Delayed Payment of Issue Fee Accepted (35 USC 151),

Petition Granted _____

☒ Petition Granted _____

☐ Petition Denied _____

☐ Petition Dismissed _____

By Direction of the Deputy Assistant Director of Patents

_____

JON WEBER
SUPERVISORY PATENT EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEP 26 2005

OFFICE OF PETITIONS

In re Application of Wehrle-Haller, et al Application No. 10/176,791 Filed: June 20, 2002 Attorney Docket No. 50275/002001	DECISION ON APPLICATION FOR PATENT TERM ADJUSTMENT

This is in response to the "Application for Patent Term Adjustment under 37 C.F.R. § 1.705" filed June 6, 2005. Applicants request that the Patent Term Adjustment indicated in the Notice of Allowance be corrected from one hundred and twenty-five (125) days to one hundred and sixty(160) 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 **one hundred and sixty (160) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On March 7, 2005 the Notice of Allowance was mailed, with a Patent Term Adjustment of one hundred and twenty-five (125) days. In response, the applicants timely filed the instant petition[1]. The applicants contest the Office calculated reduction of thirty-five (35) days in connection with a Reply to a Notice of Incomplete Application mailed on August 13, 2002. The applicants assert that they timely responded to the Notice on October 8, 2002. On November 4, 2002 the applicants received a new request

[1] PALM records indicate that the issue fee payment was received on June 6, 2005.

for a substitute sequence-containing diskette because the original diskette was damaged. The applicants filed a timely response to this request on December 18, 2002. Accordingly, the patentee requests correction of the patent term reduction incurred on December 18, 2002 from thirty-five (35) days to zero (0) days.

The request to correct the initial determination of Patent Term Adjustment is granted. On August 13, 2002, the Office sent a Notice of Missing Parts, with which the applicant fully complied on October 15, 2002. Subsequently, the Office discovered that a sequence-containing diskette in the applicants' file is damaged and, on November 4, 2002, the Office mailed a request for a replacement of a damaged diskette, entered as a "Sequence Errors" Notice. The applicant timely responded to the Notice by sending a new diskette received on December 18, 2002. No other correspondence or fees were due or received from the applicants on December 18, 2002. Therefore, a reduction of thirty-five (35) days calculated by the Office for December 18, 2002 submission is not warranted. The reduction should be corrected to zero (0) days.

The applicants do not dispute the Office's determination of a two hundred and twenty-four day patent term adjustment for the Office delay in mailing the First Office Action in accordance with §§ 1.702(a)(1) and 1.703(a)(1), and sixty-four (64) day patent term reduction due to the delay in the applicants' response to the non-final rejection in accordance with § 1.704(b).

In view of the above, the correct determination of PTA at the time of the mailing of the Notice of Allowance is one hundred and sixty(160) days.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The application is being forwarded to the Publishing Division for processing into a patent.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Kery A. Fries

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of REVISED PALM Screen

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JJGJR.: 09-04

Paper No: __

A. BURGESS LOWE
101 EAST MAPLE STREET
NORTH CANTON OH 44720

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SEP 16 2004

OFFICE OF PETITIONS

In re Application of
Bilek
Application No. 10/176,806
Filing Date: 21 June, 2002
Attorney Docket No. 2521A

: DECISION ON PETITION

This is a decision on the renewed petition filed on 26 July, 2004, to revive the instant application 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

For the reasons set forth below, the petition under 37 C.F.R.§1.137(b) **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Allowance and Fees Due mailed on 6 November, 2003, with reply due under a non-extendable deadline on or before 6 February, 2004;
- the instant application went abandoned after midnight 6 February, 2004;
- Notice of Abandonment was mailed on 25 March, 2004;
- with the instant petition (and fee), Petitioner submitted the reply (publication and issue fees) and made the statement of unintentional delay.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

Allegations as to Unintentional Delay

A grantable petition under 37 C.F.R. §1.137(b) requires a petition, fee, statement of unintentional delay, reply, and a terminal disclaimer and fee if appropriate.

---

[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[3] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

As indicated above, Petitioner now has submitted a proper reply, as required by regulation.

CONCLUSION

The petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Publications Branch to be processed into a patent.

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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Paper No.

GENERAL MILLS, INC.
P.O. BOX 1113
MINNEAPOLIS MN 55440

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In re Application of	:	
Plank et al.	:	
Application No. 10/176,822	:	DECISION ON PETITION
Filed: June 20, 2002	:	PURSUANT TO
Attorney Docket No.: 5575USA	:	37 C.F.R. § 1.181
Title: FOOD INTERMEDIATE HAVING	:	
SEQUESTERED PHYTOSTERYL ESTERS	:	
IN A POLYSACCHARIDE MATRIX	:	

This is a decision on the petition filed June 23, 2009, 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 due to the March 30, 2009 decision of the Board for Patent Appeals and Interferences which upheld the Examiner's rejections, mailed on March 31, 2009. Accordingly, the above-identified application became abandoned on May 31, 2009,[1] the expiration of the period for seeking judicial review of this decision.[2] A Notice of Abandonment was mailed on June 4, 2009.

With this petition, Petitioner has asserted that the holding of abandonment should be withdrawn due to the fact that a Request for Continued Examination (RCE) was filed on June 8, 2009.

The electronic record has been reviewed, and it is noted that an RCE was filed on June 8, 2009,[3] along with the associated fee and an amendment. This RCE was filed in response to the decision by

1 The two-month period for seeking judicial review commenced on March 30, 2009, pursuant to the first footnote on the first page of the decision of the Board for Patent Appeals and Interferences.
2 See MPEP § 1216.
3 The RCE contains a certificate of mailing dated June 1, 2009, and it is noted that May 30, 2009 fell on a Saturday.

the Board for Patent Appeals and Interferences, pursuant to 37 C.F.R. § 1.114(a)(3).

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 timely submission was 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, and jurisdiction over this application is transferred to the Technology Center, so that the application may receive further processing. The Technology Center's support staff will notify the Examiner of this decision, so that the submission under 37 C.F.R. § 1.114 - the amendment filed on June 8, 2009 - can be processed in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the withdrawal of the holding of abandonment has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **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.[4] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

4 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).

SPE Friedman

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/21/06

TO SPE OF : ART UNIT 3635

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/176,838 Patent No.: 6862864

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Carl D. Friedman
Supervisory Patent Examiner
Group 3600
SPE

3635
Art Unit

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HOUSTON ELISEEVA
4 MILITIA DRIVE
SUITE 4
LEXINGTON, MA 02421

DEC 1 2 2008

In re Application of:	:	
Thomas E. Anderson et al.	:	DECISION ON PETITION
Serial No.: 10/176,845	:	UNDER 37 C.F.R § 1.181
Filed: June 20, 2002	:	
Attorney Docket No.: 0016.0008US1	:	

This is a decision on the petition filed on June 18, 2008 under 37 C.F.R. 181, requesting the application be passed to the Board of Appeals and Interferences for review.
The petition is **GRANTED**.

Petitioner asserts that the applicants of the above-mentioned application have been seeking review of the examiner's decision by appealing to the Board of Appeals and Interferences since 2004 and have filed five separate appeal briefs, each responding to the same rejections, based on the same references.
35 U.S.C. 134 (a) states that "[a]n applicant for a patent, any of whose claims have been twice rejected, may appeal from the decision of the primary examiner to the Board of Appeals and Interferences, having once paid the fee for such appeal." A Notice of Appeal was filed by applicants on April 23, 2008 with the fee set forth in 37 C.F.R. 41.20(b)(1) within the time period provided under 37 C.F.R.. 1.134, and an appeal brief was submitted on June 18, 2008. Furthermore, a review of the prosecution history of the application shows that at least one pending claim has been rejected at least twice by the primary examiner. Since applicants have complied with all requirements of the statute, the application will be passed to the Board of Appeals and Interferences.
The application will be forwarded to the examiner for reviewing of the appeal brief filed June 18, 2008. An examiner's answer from the examiner will be issued in due course.
Any inquiry regarding this decision should be directed to Chau Nguyen, Workgroup Quality Assurance Specialist, at (571) 272-3126.

Valencia Martin-Wallace, TC Director
Technology Center 2400
Networks, Multiplexing, Cable and Security

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TECHNOLOGY CENTER 3600

Reed Taft Jacobs
P.O. Box 520066
Salt Lake City, UT 84152

In re Application of Reed Taft Jacobs Application No. 10/176,850 Filed: June 20, 2002 For: BOOK RECLINING & VIEWING SUPPORT	: : : : : :	PETITION TO INVOKE SUPERVISORY AUTHORITY UNDER 37 C.F.R. §1.181

This is in response to applicant's petition filed on October 6, 2005 for entry of the substitute specification and amendments to the claims both filed on July 15, 2005 and to have the examiner draft an allowable claim.

The petition is **DENIED.**

Petitioner argues that the examiner has repeatedly ignored the request for claim writing assistance. Petitioner also asserts that since the examiner required the submission of a substitute specification the substitute specification filed on July 15, 2005 should have been entered. Finally, petitioner urges that the proposed changes indicated by the examiner in the August 5, 2005 Advisory Action as being drawn to new issues is improper and, as such, the amendment dated July 15, 2005 should be entered.

A review of the file history indicates that the examiner has indicated a difficulty in fully understanding the intended claimed invention as evidenced by the extensive rejections under 35 USC 112, 2nd paragraph in the nonfinal Office actions dated March 26, 2003 and November 19, 2003 and the Final Office action dated February 15, 2005. Further, since the examiner has not indicated any allowable subject matter, the examiner has taken the position that she cannot identify any allowable material and as such has not proposed any claim language. It is important to note that the examiner is only expected to draft proposed claims when she can identify disclosed patentable subject matter.

Accordingly, the petition with respect to the request for a claim to be drafted is denied.

As for the denial of entry of the substitute specification, a review of the file record indicates that the examiner had objected to the format of the specification in the first Office action dated March 26, 2003 and then required a substitute specification in the Office actions dated November 19, 2003 and February 15, 2005. In the Advisory Action

dated August 5, 2005 the examiner refused entry of the substitute specification due to the inclusion of new matter. A review of the substitute specification filed on July 15, 2005 and the original disclosure, indicates that the term "wings" had support in the originally filed claims and as such does not constitute new matter. However, a review of the substitute specification filed July 15, 2005 indicates that is does not comply with the proper format and as such cannot be entered. Specifically, the "Brief Description of the Drawings" should only contain a listing of the drawing figure numbers along with an indication of what the view is. The Brief Description should not identify specifics about various elements in the drawings. The "Detailed Description of the Invention" must identify the various figures by number and explain the details of the drawings by referring to the reference numerals attached to the various elements in each of the drawings. See 37 C.F.R. 1.74 and the Manual of Patent Examining Procedure (MPEP) section 608.01(f) for further details.

Accordingly, the petition with respect to the entry of the substitute specification filed on July 15, 2005 is denied.

As for the amendments to the claims submitted July 15, 2005 considered to add "New Issues" to the claims a review of the file history indicates that the limitations added to the claims were never before considered by the examiner and as such do constitute "New Issues". Once the examiner issues a Final Office action, such as the February 15, 2005 Office action in this application, any further amendments filed are not entered as a matter of right but subject to the decision of the examiner as to whether the changes to the claims would require additional consideration or further searching.

Accordingly, the petition with respect to the entry of the amendment to the claims filed on July 15, 2005 is denied.

Petitioner is reminded that a timely response to the Notice of Appeal filed July 15, 2005 must be submitted in order to avoid abandonment of the application.

Summary: Petition **DENIED**

John J. Love, Director
Patent Technology Center 3600
(571)-272-5250

JJL:rpo: 12/20/05

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OFFICE OF PETITIONS

Reed Taft Jacobs
P.O. Box 520066
Salt Lake City UT 84152

In re Application of
JACOBS
Application No. 10/176,850
Filed: June 20, 2002
Attorney Docket No. (None)

DECISION
ON PETITION

This is a decision on the petition filed January 20, 2006 under 37 CFR 1.181, requesting review of the decision of the Technology Center (TC) Director mailed January 12, 2006 and a status letter filed on August 28, 2006.

The petition is **DENIED**.

On October 6, 2005, a petition under 37 CFR 1.181 was filed, requesting assistance writing an allowable claim. The petitioner also asked for entry of the July 15, 2005 amendment filed after the mailing of the final Office action of February 15, 2005. On January 12, 2006, the Director for TC 3600 upheld the examiner's actions and denied[1] petitioner's requests to assist in writing an allowable claim and to enter the amendment of July 15, 2005. The instant petition seeks review of the TC Director's decision.

Petitioner reiterates in the January 12, 2006 petition his request for the Office to assist in writing an allowable claim. The language of MPEP 707.07(j)(I) clearly indicates that the assistance by the Office to draft a claim for the applicant is not automatic and is conditional. MPEP 707.07(j)(I) states:

> when, **during the examination of a pro se application it becomes apparent to the examiner that there is patentable subject matter disclosed in the application**, the examiner should draft one or more claims for the applicant and indicate in his or her action that such claims would be allowed if incorporated in the application by amendment. (Emphasis added)

The above Office policy permits the examiner (and not other staff within the Office) to draft a claim only when there is apparent patentable subject matter disclosed in the application. As previously stated in the TC Director's decision of January 12, 2006, "the examiner has taken the position that she cannot identify any allowable subject matter" and, therefore, has not drafted a claim. Additionally in each Office action mailed (the March 26, 2003 Office action, the

[1] Because this decision was not a final agency action, the decision was technically a denial without prejudice. See MPEP 1002.02.

November 19, 2003 Office action and the February 15, 2005 Office action), the examiner has noted numerous clarity problems arising from the drawings, specification and claims in the above-identified application, making the identification of any apparently patentable subject matter that much more difficult. This is exemplified by the discussion in TC Director's decision regarding the rejection of the claims as vague and indefinite under 35 U.S.C. § 112, ¶2 in the non-final Office actions dated March 26, 2003 and November 19, 2003 and the final Office action dated February 15, 2005. Based on the above explanation, the Office has shown a rational basis for the examiner's refusal to draft an allowable claim in the above-identified application and for the TC Director's decision to uphold the examiner's action.

Petitioner also appears to request a review of the TC Director's decision to uphold the examiner's refusal to enter the after-final amendment filed July 15, 2005, without specifically pointing out any errors in the decision. Once an action is made final, prosecution is closed, and there are limited actions that the applicant is permitted to take as a matter of right. As 37 CFR 1.113(c) states, in pertinent part, a "[r]eply to a final rejection or action must include cancellation of, or appeal from the rejection of, each rejected claim." Thus, the only replies after a final Office action that will be entered into the application as a matter of right are amendments canceling each rejected claim or the filing of an appeal. Because the amendment filed on July 15, 2005 did not cancel each rejected claim, the examiner's refusal to enter the amendment was not in error, and the TC Director's decision to uphold the examiner's refusal to enter the July 15, 2005 amendment is consistent with Title 37 of the Code of Federal Regulations and Office policy.

Other amendments are permitted entry after the mailing of the final Office action only if approved by the examiner. The following amendments may be entered pursuant to 37 CFR 1.116: (1) an amendment canceling claims or complying with any requirement of form expressly set forth in a previous Office action; (2) an amendment presenting rejected claims in better form for consideration on appeal; or (3) an amendment touching the merits of the application, upon a showing of good and sufficient reasons why the amendment is necessary and was not earlier presented. Upon reviewing the July 15, 2005 amendment after final action, the amendment does not cancel claims nor has the Petitioner show good and sufficient reasons why the amendment was necessary and was not earlier presented. Also consistent with the MPEP 714.19(A), an amendment presenting a claim requiring a new search or otherwise raising a new issue in an application whose prosecution before the primary examiner has been closed is a type of amendment ordinarily denied entry. The examiner determined in the August 5, 2005 Advisory Action that the amendment after final to the claims raised new issues that would require additional consideration and/or search and included new matter.[2] The TC Director's decision also concurred that the amendment to the claims raised new issues because they "were never before considered by the examiner." Based on this explanation, the amendment after final was

[2] 35 U.S.C. 132(a) prohibits the addition of new matter into the disclosure or the introduction of subject matter (i.e., by amendment) not disclosed in the original disclosure into the abstract, specification, claims or drawings after the filing date.

properly not entered, and the examiner's refusal to enter the amendment and the TC Director's decision to uphold the examiner's action has not been shown to be clear error.

Furthermore, while the TC Director conceded in the January 12, 2006 decision that the substitute specification does have support for the term, "wings," the decision additionally and correctly points out the substitute specification is not in compliance with 37 CFR 1.74 and MPEP 608.01(f). Pursuant to 37 CFR 1.74, "[w]hen there are drawings, there shall be a brief description of the several views of the drawings and the detailed description of the invention shall refer to the different views by specifying the numbers of the figures and to the different parts by use of reference letters or numerals (preferably the latter)." The first three paragraphs of the "Brief Description of the Drawings" of the substitute specification submitted July 15, 2005 contains more than a brief description of the several views of the drawings. The "Detailed Description of the Invention" section of the substitute specification does not refer to all the different views by specifying numbers of the figures and fails to refer to any of the different parts by use of reference letters or numerals. The amendment, therefore, did not comply with a requirement of form expressly set forth in a previous Office action. For the all the reasons listed above, the decision of examiner and TC Director to deny entry of the substitute specification and the amendment filed on July 15, 2005 after the final Office action of February 15, 2005 had a rational basis and was not an abuse of discretion.

The Petitioner also asks, in general, to hold the objections and requirements as to form in the February 15, 2005 Office action in abeyance until allowable subject matter has been indicated under 37 CFR 1.111(b). While this request was not before the TC Director in the petition filed October 6, 2005, this issue will be addressed for the sake of expediency. MPEP 714.02 states, in pertinent part,

> [i]n all cases where reply to a requirement is indicated as necessary for further consideration of the claims, or where allowable subject matter has been indicated in an application, a complete reply must either comply with the formal requirements or specifically traverse each one not complied with.

In the final action of February 15, 2005, page 11 explicitly states the "objection to the drawings will not be held in abeyance." The examiner, therefore, determined that the drawing requirement was necessary for further consideration of the claims, and a complete reply must include compliance with the drawing requirements or a traversal of the requirement. Moreover, this request to hold formal matters in abeyance seems irrelevant in light of the fact that Petitioner did respond to the objections and requirements in the Office action on July 15, 2005. Petitioner cannot respond to such objections and requirements and, then, later demand such formal matters be held in abeyance.

Petitioner requests review of the art rejections presented in the February 15, 2005 Office action. 37 CFR 1.181 permits a petition to the Director on any action or requirement of any examiner in the *ex parte* prosecution of an application, which is not subject to appeal to the Board of Patent Appeals and Interferences (Board). A review of the disputed rejections in the February 15, 2005

Office action is the type of action subject to appeal and must be addressed by Board. See 35 U.S.C. § 134(a) and Boundy v. U.S. Patent & Trademark Office, 73 USPQ2d 1468, 1472 (E.D. Va. June 15, 2004). Therefore, it would be inappropriate for the Director to review the disputed rejections.

Finally, the petition includes several questions for the Office related to *pro se* applicants. Petitioner's attention is directed to the Office's Freedom of Information Act (FOIA) webpage at http://www.uspto.gov/web/offices/com/sol/foia/index.html. If Petitioner is still unable to obtain the information, he should consider submitting a formal FOIA request. See http://www.uspto.gov/web/offices/com/sol/foia/submit.htm.

Any remaining requests or inquiries, such as those presented in the status letter filed August 28, 2006, were not before the TC Director and, therefore, will not be reviewed.

In conclusion, Petitioner has been treated fairly during examination and on petition. The Office has provided specific guidance on several occasions in the manner of how to make amendments to the specification.[3] Even with this assistance, an examination of this application reveals that applicant is unfamiliar with patent prosecution procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed.

For the above reason, the Office once again[4] strongly advises Petitioner to hire a registered practitioner to prosecute this application since the value of a patent is largely dependent upon skilled preparation and prosecution. The Office cannot aid in selecting a practitioner. A listing of registered patent attorneys and agents is available on the USPTO Internet web site http://www.uspto.gov in the Site Index under "Agent and Attorney Roster, Patents". Applicants may also obtain a list of registered patent attorneys and agents located in their area by writing to the Mail Stop OED, Director of the U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.

DECISION

For the reasons given above, petitioner has failed to adequately demonstrate reversible error in the decision of the Technology Center Director. The petition is granted to the extent that the decision of the Technology Center Director dated January 20, 2006, has been reviewed but is **denied** as to the request that the aforementioned decision be overturned. The Office's decision not to draft an allowable claim and to refuse entry of the amendment or substitute specification of July 15, 2005 will not be disturbed.

This decision may be viewed as a final agency action within the meaning of 5 U.S.C. § 704 for purposes of seeking judicial review of the petitionable questions only. See MPEP 1002.02.

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[3] For example, see Office actions mailed March 26, 2003, November 19, 2003, and February 15, 2005.

[4] The March 26, 2003, November 19, 2003, and February 15, 2005 Office actions each include a recommendation to hire a registered practitioner.

Telephone inquiries concerning this decision should be directed to Denise Pothier at (571) 272-4787.

John Doll
Commissioner for Patents

CP

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Kimton N. Eng, Esq.
DORSEY & WHITNEY LLP
Suite 3400
1420 Fifth Avenue
Seattle, WA 98101

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OFFICE OF PETITIONS

In re Application of Bonnie Harrison Application No. 10/176,852 Filed: June 20, 2002 Atty Docket No. 500454.04	DECISION ON APPLICATION FOR PATENT TERM ADJUSTMENT

This is a decision on the "PETITION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705(b)," filed January 10, 2005. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from eighteen (18) days to sixty-three (63) days.

The application for patent term adjustment is **DISMISSED**.

Nonetheless, for the reasons set forth herein, the Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is zero **(0)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On December 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 18 days. On January 10, 2005, applicant timely submitted the instant application for patent

term adjustment[1]. Applicant disputes the reduction of 45 days, pursuant to § 1.704(c)(8), for the filing of a supplemental response. Applicant states that the response was specifically requested by the examiner, and thus, there should have been no reduction pursuant to § 1.704(c)(8).

Applicant states that the application is not subject to a terminal disclaimer.

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, is a failure to engage in reasonable efforts to conclude prosecution.

On August 9, 2004, applicant filed a response after non-final Office action. Then, on September 23, 2004, applicant filed a supplemental response, which applicant states was expressly requested by the examiner. However, the record further reveals that on October 14, 2004 and on November 19, 2004, applicant filed additional papers, Information Disclosure Statements (IDS). The record does not support a conclusion that either IDS was expressly requested by the examiner. Nor was either IDS accompanied by a § 1.704(d) statement. Accordingly, regardless of whether the reduction of 45 days for filing of a supplemental response was proper, the PTA should have been reduced pursuant to § 1.704(c)(8). Specifically, the PTA should have been reduced by 102 days, the number of days beginning on the day after the date the initial reply was filed, August 10, 2004, and ending on the date that the second supplemental paper was filed, November 19, 2004 for the filing of the second IDS.

In view thereof, the determination of patent term adjustment at the time of the mailing of the Notice of Allowance is 0 days.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The application is being forwarded to Technology Center AU 2631 for consideration of the IDS filed January 10, 2005. Thereafter the application will be forwarded to the Office of Patent Publication for timely issuance of the patent.

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[1] PALM records show that the Issue Fee was received on January 28, 2005.

Telephone inquiries specific to this decision should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Karin A. Ferriter
for

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Day : Wednesday

PALM INTRANET

Date: 6/8/2005
Time: 18:05:55

PTA Calculations for Application: 10/176852			
Application Filing Date:	06/20/2002	PTO Delay (PTO):	77
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	59
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-57		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
61	06/08/2005	ADJUSTMENT OF PTA CALCULATION BY PTO		102	
60	06/08/2005	ADJUSTMENT OF PTA CALCULATION BY PTO	45		
49	12/02/2004	MAIL NOTICE OF ALLOWANCE			
48	11/30/2004	ISSUE REVISION COMPLETED			
47	11/30/2004	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
46	11/29/2004	NOTICE OF ALLOWABILITY			
45	10/29/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
44	10/29/2004	DATE FORWARDED TO EXAMINER			
43	09/23/2004	SUPPLEMENTAL RESPONSE		45	40
42	09/23/2004	WORKFLOW INCOMING AMENDMENT IFW			
41	09/16/2004	DATE FORWARDED TO EXAMINER			
40	08/09/2004	RESPONSE AFTER NON-FINAL ACTION			
39	08/09/2004	WORKFLOW INCOMING AMENDMENT IFW			
38	06/16/2004	MAIL NON-FINAL REJECTION			
37	06/14/2004	NON-FINAL REJECTION			
36	09/17/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
35	05/28/2004	DATE FORWARDED TO EXAMINER			
34	05/25/2004	REQUEST FOR CONTINUED EXAMINATION (RCE)			
33	05/28/2004	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
32	05/25/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
31	05/03/2004	MAIL EXAMINER'S AMENDMENT			
30	04/30/2004	EXAMINER'S AMENDMENT COMMUNICATION			

29	03/05/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
28	04/02/2004	WORKFLOW INCOMING AMENDMENT IFW			
27	04/02/2004	WORKFLOW - REQUEST FOR RCE - BEGIN			
26	03/17/2004	RECEIPT INTO PUBS			
25	02/16/2004	RECEIPT INTO PUBS			
24	02/13/2004	WORKFLOW - FILE SENT TO CONTRACTOR			
23	02/13/2004	RECEIPT INTO PUBS			
22	02/11/2004	DISPATCH TO PUBLICATIONS			
21	02/11/2004	ISSUE REVISION COMPLETED			
20	02/09/2004	MAIL NOTICE OF ALLOWANCE			
19	02/09/2004	MAIL EXAMINER'S AMENDMENT			
18	02/09/2004	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
17	11/24/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	02/09/2004	EXAMINER'S AMENDMENT COMMUNICATION			
15	02/09/2004	NOTICE OF ALLOWABILITY			
14	12/12/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		14	12
13	12/18/2003	DATE FORWARDED TO EXAMINER			
12	11/28/2003	RESPONSE AFTER NON-FINAL ACTION			
11	11/05/2003	MAIL NON-FINAL REJECTION	77		-1
10	11/03/2003	NON-FINAL REJECTION			
9	08/05/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	07/18/2003	CASE DOCKETED TO EXAMINER IN GAU			
7	03/11/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
6	02/10/2003	CASE DOCKETED TO EXAMINER IN GAU			
5	01/27/2003	CASE DOCKETED TO EXAMINER IN GAU			
4	07/19/2002	APPLICATION DISPATCHED FROM OIPE			
3	07/18/2002	APPLICATION IS NOW COMPLETE			
2	07/06/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	06/20/2002	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

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EXPLANATION OF PTE CALCULATION

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OFFICE OF PETITIONS

In re Application of
Robert Eugene Chalstrom, Timothy L. Goldstein, Mike A. Farrell and Gregory A. Blake
Application No. 10/176,853
Filed: June 20, 2002
Title: SYSTEM AND METHOD FOR ADVERTISING

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.47(a)

This is in response to the "Petition Under 37 CFR 1.47(a)," filed November 5, 2002 (Certifcate of Mailing date: October 30, 2002).

The petition is **granted**.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

The file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Senior Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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TIMOTHY L. GOLDSTEIN
926 PALOVERDE DRIVE
LOVELAND, CO 80538

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MAR 1 2 2003

OFFICE OF PETITIONS

In re Application of
Robert Eugene Chalstrom, Timothy L. Goldstein,
Mike A. Farrell and Gregory A. Blake
Application No. 10/176,853
Filed: June 20, 2002
Title: SYSTEM AND METHOD FOR ADVERTISING

Dear TIMOTHY L. GOLDSTEIN:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Edward Tannouse at (703) 306-9200. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1(800) 972-6382 (outside the Washington D.C. area).

for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS, CO 80527

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 6

MAIL

FEB 1 8 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

David B. Cochran, Esq.
Jones, Day, Reavis & Pogue
901 Lakeside Avenue/North Point
Cleveland OH 44114

In re application of:)
Griffin, et al.)
Serial Number: 10/176,866)
Filed: June 21, 2002)
For: HAND-HELD ELECTRONIC)
DEVICE)

DECISION ON PETITION

This is a decision on the petition filed January 21, 2003 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 petitioner meets all of the above requirements. Accordingly, the petition is **GRANTED**.

The application will maintain its special status throughout its entire course of prosecution at the Patent and Trademark Office, including appeal, if any 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.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MAILED

OCT 18 2007

TECHNOLOGY CENTER 2100

PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND OH 44114-3108

In re Application of:
Duane R HIXON
Application No. 10/176,878
Filed: June 21, 2002
For: **METHOD AND SYSTEM FOR THE EFFICIENT CALCULATION OF UNSTEADY PROCESSES ON ARBITRARY SPACE-TIME DOMAINS**

DECISION ON PETITION UNDER 37 C.F.R. § 1.84(a)(2) TO ACCEPT COLOR DRAWINGS

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed June, 21, 2002, requesting acceptance of color drawings.

The petition requests that the color drawings of Figures 9, 10, 11, 12 and 13 be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. § 1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) sets of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"the file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition was filed with the required fee and was filed with three (3) sets of color drawings of Figures 9, 10, 11, 12 and 13. The specification at paragraph 0046 did contain the required notification described above.

The petition is **GRANTED**.

Kakali Chaki
Quality Assurance Specialist
Technology Center 2100

UNITED STATES PATENT AND TRADEMARK OFFICE

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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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AUG 16 2007

OFFICE OF PETITIONS

In re Patent No. 6,906,244	:	
Issue Date: June 14, 2005	:	
Application No. 10/176,884	:	NOTICE
Filed: June 21, 2002	:	
Patentee(s): Robert Fischer, et. al.	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed January 5, 2007. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**. Therefore, status as a small entity has been removed and all future fees paid must be paid at the large entity rate.

Additionally, the $65 late filing surcharge paid on October 15, 2002 was submitted at the small entity rate. However, since petitioner states that status as a small entity was changed on September 1, 2002, the balance of$65 will be charged to petitioner's deposit account. Therefore, fees totaling $765, which includes the $700 issue fee deficiency, have been charged to petitioner's deposit account. If this is incorrect, petitioner must notify the Office immediately.

Inquiries related to this communication 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
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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JAN 19 2006

OFFICE OF PETITIONS

In re Application of	:	
Scott Brown, et. al.	:	
Application No. 10/176,891	:	ON PETITION
Filed: June 21, 2002	:	
Attorney Docket No. DEP704	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 20, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to respond to the Notice of Non-Compliant Amendment mailed December 8, 2004.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

The application file is being referred to Technology Center Art Unit 3732, 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

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)
6979345	2005-12-27	10176895	2002-06-20	014580US1

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	/Todd A. Holmbo/	Date (YYYY-MM-DD)	2010-04-20
Name	Todd A. Holmbo	Registration Number	42665

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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In re Patent No. 6979345
Issue Date: December 27,2005
Application No. 10176895
Filed: June 20,2002
Attorney Docket No. ICT/US-44

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 20,2010 ,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 April 20,2010 . 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.

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OFFICE OF PETITIONS

THOMAS A. VAN ZANDT
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN, LLP
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

In re Application of	:	
Jon R. Degenhardt, et al.	:	
Application No. 10/176,898	:	DECISION ON PETITION
Filed: June 20, 2002	:	TO WITHDRAW
Attorney Docket No. 5306P084	:	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 **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Blakely, Sokoloff, Taylor & Zafman, LLP has been revoked by the assignee of the patent application on September 5, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: SAM CAMPBELL
CAMPBELL, STEPHENSON ASOCOLESE, LLP
4807 SPICEWOOD SPRING ROAD
BLDG. 4, SUITE 201
AUSTIN, TX 78759

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/176,898	06/20/2002	Jon R. Degenhardt	5306P084

CONFIRMATION NO. 3734

OC000000022335870

OC000000022335870

Thomas A. Van Zandt
Blakely, Sokoloff, Taylor & Zafman LLP
12400 Wilshire Boulevard, Seventh Floor
Los Angeles, CA 90025-1030

Date Mailed: 02/05/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/05/2006.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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OFFICE OF PETITIONS

THOMAS VAN ZANDT
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085

In re Application of	:	
Jon R. Degenhardt, et al.	:	
Application No. 10/176,898	:	DECISION ON PETITION
Filed: June 21, 2002	:	TO WITHDRAW
Attorney Docket No. 5306P084	:	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 **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Blakely, Sokoloff, Taylor & Zafman, LLP has been revoked by the assignee of the patent application on September 5, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: Sam Campbell
Campbell, Stephenson Asocolese, LLP
4807 Spicewood Spring Road
Bldg. 4, Suite 201
Austin, TX 78759

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Glenn M. Kubota
Morrison & Foerster LLP
35th Floor
555 W. 5th Street
Los Angeles CA 90013

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SEP 29 2006
OFFICE OF PETITIONS

In re Application of	:	
Atkin, et al.	:	
Application No. 10/176,907	:	DECISION ON PETITION
Filed: June 20, 2002	:	TO WITHDRAW
Attorney Docket No. 514552000100	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 10, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "change of attorney", 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: Benjamin J. Hauptman
Lowe Hauptman Gilman & Berner, LLP
1700 Diagonal Road
Suite 300
Alexandria, VA 22314

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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GLENN M. KUBOTA
MORRISON & FOERSTER, LLP
555 W, 5TH STREET
35TH FLOOR
LOS ANGELES, CA 90013

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JAN 04 2007

OFFICE OF PETITIONS

In re Application of	:	
Paul A. Atkin, et al.	:	
Application No. 10/176,907	:	DECISION ON PETITION
Filed: June 20, 2002	:	TO WITHDRAW
Attorney Docket No. 514552000100	:	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 12, 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 Glenn M. Kubota on behalf of all attorneys of record who are associated with this application.

All attorneys/agents associated with this application have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There are no pending office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: Paul A. Atkin
2/16 Oakfield Street
Burnside, Christchurch
New Zealand

cc: Benjamin J. Hauptman
Lowe, Hauptman Gilman & Berner, LLP
1700 Diagonal Road
Suite 300
Alexandria, VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/176,907	06/20/2002	Paul Andrew Atkin	51452000100

CONFIRMATION NO. 3755

OC000000021802706

OC000000021802706

Glenn M. Kubota
Morrison & Foerster LLP
35th Floor
555 W. 5th Street
Los Angeles, CA 90013

Date Mailed: 01/03/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/12/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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HELLER EHRMAN LLP
275 MIDDLEFIELD ROAD
MENLO PARK, CA 94025-3506

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MAY 1 4 2008

OFFICE OF PETITIONS

In re Application of :
Kevin P. BAKER, et al :
Application No. 10/176,918 : DECISION ON PETITION
Filed: June 20, 2002 :
Attorney Docket No. P3430R1C82 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 11, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, November 1, 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 2, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1540; and (3) an adequate statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 1647 for appropriate action by the Examiner in the normal course of business on the reply received December 11, 2007.

April Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GOODWIN PROCTER LLP
ATTN: PATENT ADMINISTRATOR
135 COMMONWEALTH DRIVE
MENLO PARK CA 94025-1105

MAILED

JUL 09 2010

OFFICE OF PETITIONS

In re Patent No. 7,495,083	: DECISION ON REQUEST
Issued: February 24, 2009	: FOR RECONSIDERATION
Application No. 10/176,918	: OF PATENT TERM ADJUSTMENT
Filed: June 20, 2002	: AND
Attorney Docket No. GNE-3430-C82	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)" filed April 8, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from 830 days to 1007 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 adjusted by one thousand six (1006) days and is **GRANTED to the extent indicated herein**.

It is undisputed that the period of examination delay, "A" delay", pursuant to 37 CFR 1.702(a)(1) and (a)(2) is 481, 39 and 150 days. The "B" delay period, the over three year period begins on June 20, 2005 and ends on February 24, 2009, considering the 39 days of overlap for the period September 23, 2006 to November 1, 2006 and considering the 150 days of overlap for the period April 11, 2008 to September 8, 2008, is 1156 days. Additionally, for the filing of a Notice of Appeal on November 23, 2005, the 344 days of the over three year period consumed by appellate review, beginning on November 22, 2005 and ending on November 1, 2006, are not included in the B delay. *See* 35 U.S.C. § 154(b)(1)(B)(ii). As such, the patent term adjustment is 1006 days (670 "A delay" days plus 1345 "B delay" days minus 39 + 150 overlap days minus 305 appellate review days minus 515 days applicant delay), not 1007 days.

The Office acknowledges the authorization to charge the $200.00 fee set forth in 37 CFR 1.18(e) to deposit account no. 50-2387.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or

patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand six (1006)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,495,083 B2

DATED : February 24, 2009

INVENTOR(S) : Audrey Goddard

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 (830) days

Delete the phrase "by 830 days" and insert – by 1006 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER, EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

MAILED

SEP 28 2009

OFFICE OF PETITIONS

In re Application of

Sergey G. LOKHOV, et *al.*
Application No. 10/176,972
Filed: June 18, 2002
Attorney Docket No. **17682A-003640US**

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 4, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by William B. Kezer on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

cc: **ROBERT O. DEMPCY**
11421 NE 115TH COURT
KIRKLAND, WA 98033

cc: **JACKSON WALKER, LLP**
901 MAIN STREET, SUITE 6000
DALLAS, TX 75202

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 8

Soules & Wallace, P.C.
Attn: Janice Leverett
Frost Bank Tower
100 W. Houston St., Ste. 1500
San Antonio, TX 78205

MAY 13 2003

In re Application of	:	
George Lamont Williams	:	DECISION ON REQUEST TO
Application No. 10/176,996	:	WITHDRAW FROM RECORD
Filed: June 21, 2002	:	
For: VEHICLE DIRECTION DEVICE	:	

This is a decision on the request filed by Janice Leverett to withdraw as attorney/agent of record pursuant to 37 C.F.R. § 1.36 filed on April 18, 2003.

The request is **APPROVED** for the withdrawal of Janice Leverett as attorney/agent of record. The withdrawal is effective as of the date of this letter not when the request for withdrawal was filed.

The application currently has no attorney/agent of record.

As requested, all future communications from the Office will continue to be directed to Soules & Wallace, P.C. at the address provided above unless otherwise notified by applicant.

Edward Westin

Edward Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/177,025	06/21/2002	Kelan C. Silvester	5038-213	2170

20575 7590 01/28/2009
MARGER JOHNSON & MCCOLLOM, P.C.
210 SW MORRISON STREET, SUITE 400
PORTLAND, OR 97204

EXAMINER
NGUYEN, TAN QUANG

ART UNIT	PAPER NUMBER
3661	

MAIL DATE	DELIVERY MODE
01/28/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090123

DATE : January 29, 2009

TO SPE OF : ART UNIT 3661

SUBJECT : Request for Certificate of Correction on Patent No.: 7,292,918

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: /Thomas G. Black/ Art Unit 3661

20 JUN 2003

#8

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Andrew D. Gathy
Sierra Patent Group, Ltd.
PO Box 6149
Stateline, NV 89449

In re Application of	:	
SELAND, Henrik	:	
Application No.: 10/177,030	:	DECISION ON
PCT No.: PCT/NO00/00436	:	
Int. Filing Date: 20 December 2000	:	PETITION
Priority Date: 22 December 1999	:	
Attorney Docket No.: PRO-004	:	UNDER 37 CFR 1.181
For: LIGHTING DEVICE FOR	:	
INSTALLATION IN LANE SURFACE	:	

This decision is in response to applicant's "Petition to Consider Application As Being Filed Under 35 U.S.C. §371," filed with the United States Patent and Trademark Office on 09 December 2002.

BACKGROUND

On 20 December 2000, applicant filed international application PCT/NO00/00436. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 28 June 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 20 July 2001, prior to nineteen months from the filing date of the international application. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 24 June 2002 (22 June 2002 was a Saturday).

On 20 June 2002, applicant filed a transmittal letter for entry into the national stage in the U.S. accompanied by the basic national fee. The application was processed as a filing under 35 U.S.C. 111(a).

On 23 July 2002, the Office mailed a NOTICE TO FILE MISSING PARTS OF APPLICATION (Form PTO-1533) granting the application a filing date of 20 June 2002 and requiring an oath or declaration and the surcharge under 37 CFR 1.16(e).

On 27 August 2002, applicant submitted a RESPONSE TO THE NOTICE TO FILE MISSING PARTS which was accompanied by, *inter alia*, an executed declaration of the inventor and the surcharge under 37 CFR 1.16(e).

On 27 September 2002, applicant submitted a REQUEST FOR CORRECTED FILING RECEIPT requesting that the priority claim to PCT/NO00/00436 be indicated.

On 22 October 2002, the Office mailed Response to Request For Corrected Filing Receipt indicating that the priority claim was more than one year prior to the filing of the instant application.

On 09 December 2002, applicant filed the instant petition to consider the 20 June 2002 filing a national stage application under 35 U.S.C. §371

DISCUSSION

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. §371(c). The official USPTO Notice published in the Official Gazette at 1077 OG 13 entitled "Minimum Requirements for Acceptance of Applications Under 35 U.S.C. 371 (the National Stage of PCT)" states, in part, the following:

> The Patent and Trademark Office is continuing to receive application papers which do not clearly identify whether the papers (1) are being submitted to enter the national stage of the Patent Cooperation Treaty (PCT) under 35 U.S.C. 371 or (2) are being filed as a regular national application under 35 U.S.C. 111.
>
> * * *
>
> To clearly indicate an international application is being filed under 35 U.S.C. 371 the applicant should use the "Transmittal Letter for United States Designated Office" (Form PTO-1390) as the transmittal letter.
>
> Alternatively, one of the following indications may be used:
>
> 1) the applicant shall clearly state in the transmittal or cover letter that he or she is filing under 35 U.S.C. 371 or entering the national stage under PCT; or
>
> 2) the applicant clearly identifies in the oath or declaration the specification to which it is directed by referring to a particular international application by PCT Serial Number and International Filing Date and that he or she is executing the declaration as, and seeking a U.S. Patent as, the inventor of the described in the identified international application.

The transmittal letter filed on 20 June 2002 clearly identified the application as a §371 filing. There were no conflicting instructions.

Since the application was processed under 35 U.S.C. §111, applicant was charged the fees for an application filed under 35 U.S.C. §111 rather than the fees for an application filed under 35 U.S.C. §371. The fees will be corrected. The additional amount equal to the difference between the basic filing fee under 35 U.S.C. §111 and the basic national fee under 35 U.S.C. §371 will be charged to Deposit Account No. 50-0612.

It is noted that the requirements of 35 U.S.C. §371 were complied with as of 27 August 2002, the date of receipt of the declaration in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

For the reasons discussed above, the Petition is **GRANTED**.

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.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for processing as a U.S. national stage application of the international application no. PCT/NO00/00436, in accordance with this decision, that is for mailing of a Notification of Acceptance (Form PCT/DO/EO/903) according the application a 35 U.S.C. 371(c) date of **27 August 2002** and issuance of a corrected filing receipt.

Richard Cole
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 703-305-0455
Facsimile: 703-308-6459

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FROM DIRECTORS OFFICE

MAR 29 2005

TECHNOLOGY CENTER 3600

HARSHA & ASSOCIATES
1630 5TH Avenue
Moline, IL 61265

In re Application of
David C. Orlowski et al.
Application No. 10/177,067
Filed: June 21, 2002
For: ARTICULATED SEAL

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office, on December 7, 2004.

The petition is **GRANTED** in view of the following evidence of timely filing :

☒ Postcard receipt being dated July 7, 2004 .

☐ USPTO return facsimile receipt dated _____ which identifies the application by serial number and the type of Response that was filed on that date.

☐ Certificate of Mailing/Transmission signed on _____ and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

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.

SNM/dgd: 3/24/05

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600