UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 5

KATTEN MUCHIN ZAVIS ROSENMAN
575 MADISON AVENUE
NEW YORK NY 10022-2585

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OFFICE OF PETITIONS

In re Application of
Ozaki
Application No. 10/177,075
Filed: June 20, 2002
Attorney Docket No. FUJI 12.918B
For: DISTORTION COMPENSATING DEVICE

DECISION ON PETITION

This is a decision on the petition, filed September 30, 2002 (certificate of mailing date September 24, 2002), requesting that figure 3 be accorded a filing date of June 20, 2002.

The application was filed on June 20, 2002. On July 24, 2002, the Office of Initial Patent Examination mailed a " Notice to File Corrected Application Papers" informing petitioner, *inter alia*, that figure 3 appeared to have been omitted.

In response to the Notice, petitioner timely filed the present petition. Petitioner requests a June 20, 2002 filing date for figure 3 on the basis that the allegedly omitted figure was received in the Patent and Trademark Office (PTO) on June 20, 2002. In support, the petition is accompanied by (1) a declaration of the attorney of record who reviewed the application prior to filing and attests to the fact that figure was present and (2) a copy of applicant's itemized postcard receipt.

The declaration by counsel submitted with the petition states without equivocation or doubt that counsel checked the assembled application papers and determined that the application included figure 3.

The Office file is the official record of what was filed on June 20, 2002. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. In this regard, declarations by individuals involved in the preparation and mailing of the original application reciting their personal recollection or belief of what was contained in the application that they reviewed and/or mailed are no more persuasive of what was actually mailed than the contents of the official record. Such declarations, as in this case, are usually made months after the actual events recited. Furthermore, the events recited in the declaration are routine.

It is for this reason that the Office has established a practice of providing a receipt for papers

filed in the Office to any applicant desiring a receipt. The practice, which was long ago established and is well publicized, requires that any paper for which a receipt is desired be filed in the Office with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the Office of all the items listed thereon on the date stamped thereon by the Office. See section 503, Manual Of Patent Examining Procedure (MPEP 503).

To reiterate, a properly itemized return postcard constitutes *prima facie* evidence that the items were filed on the date stamped thereon. Unfortunately, a review of the copy of the itemized postcard submitted with the instant petition reveals that there is no date stamp. The Office cannot ascertain when the items listed thereon were filed, if they were filed. Petitioner is urged to file a copy of the date stamped postcard receipt.

The petition is **dismissed**.

However, if the date stamped postcard cannot be located petitioner has another avenue for relief. Petitioner can rely on the incorporation by reference statement found in the original transmittal letter.

MPEP 201.06(c) states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition. (emphasis supplied)

If applicant desires that figure 3 be added to the application, the appropriate procedure is by way of amendment requesting entry of the figure. Any such amendment should be filed prior to the first action on the merits and will be considered by the primary examiner. Figure 3 may be entered by the primary examiner so long as the figure contains no new matter. See MPEP 608.02(a).

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of June 20, 2002. The substitute drawings of Figures 1-2 and 4-26, filed September 30, 2002, will be used for processing purposes. Figure 3, however, will **not** be processed at this time.

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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SCHWEGMAN LUNDBERG WOESSNER & KLUTH PA
POST OFFICE BOX 2938
MINNEAPOLIS, MN 55402-0938

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MAY 11 2005

OFFICE OF PETITIONS

In re Application of	:
Jerome M. Eldridge et al	:
Application No. 10/177,096	: DECISION GRANTING PETITION
Filed: June 21, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1303.063US1	:

This is a decision on the petition, filed May 9, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 9, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred 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.

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

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

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OFFICE OF PETITIONS

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

In re Application of :
Jerome M. Eldridge et al :
Application No. 10/177,096 : ON PETITION
Filed: June 21, 2002 :
Attorney Docket No. 1303.063US1 :

This is a decision on the petition, filed April 18, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 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 2818 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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Paper No. 05

G. Peter Albert
Foley and Lardner
P.O. Box 80278
San Diego, CA 92138-0278

MAR 19 2004

In re Application of:	:	
Patel, *et al.*	:	DECISION ON REQUEST TO
Application No. 10/177,133	:	WITHDRAW FROM RECORD
Filed: June 20, 2002	:	
For: SENSOR AND SENSOR ARRAY HAVING IMPROVED SELECTIVITY	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed April 09, 2003.

The request is **dismissed** as moot.

A review of the application file record reveals a proper revocation of power of attorney to the attorneys of CATCALYST LAW GROUP, APC, was accepted on September 10, 2003. As such, the power of attorney for the attorneys and agents requesting withdrawal has already been revoked. Accordingly, the present request is moot and must be dismissed.

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

All future communications from the Office will be directed to the attorneys of CATCALYST LAW GROUP, APC, at the below-listed address until otherwise notified by applicant.

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

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

cc: CATCALYST LAW GROUP, APC
4330 LA JOLLA VILLAGE DRIVE SUITE 220
SAN DIEGO, CA 92122

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 9/6/07

TO SPE OF : **Technology Center** 2615

10/177140

SUBJECT : Request for Certificate of Correction on Patent No.: 7227968 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

Elisha Evans
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 110

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

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

Comments:

The Certificate of Correction for amending the title to "Expansible Receiver Module" has been approved.

SINH TRAN
SUPERVISORY PATENT EXAMINER
SPE

2615
Art Unit

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#9

In re Application of David Robert Allen Serial No. 10/177,174 Filed: June 21, 2002 For: PREPARATION OF PROTECTED AMINO ACIDS	: : : : : :	NOTICE OF WITHDRAWAL FROM ISSUE UNDER 37 CFR 1.313(b)

The above-identified application is withdrawn from issue after payment of the issue fee due to unpatentability of one or more claims. See 37 CFR 1.313(b)(3).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquiries should be directed to Johann Richter at (571)272-0646.

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

Bruce M. Kisliuk
Director, Technology Center 1600

Kevin R. Erdman
Baker & Daniels
Suite 2700
300 North Meridian Street
Indianapolis, IN 46204

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Paper No. 7

HARRINGTON & SMITH, LLP
4 RESEARCH DRIVE
SHELTON, CT 06484-6212

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DEC 27 2002

OFFICE OF PETITIONS

In re Application of Mills et al. Application No. 10/177,217 Filed: June 20, 2002 Attorney Docket No.:003A.0001.U1(US)	:	ON PETITION

This is a decision on the petition filed October 18, 2002, requesting that the above-identified application be accorded a filing date of June 20, 2002 with figure 15 as part of the original application disclosure.

The application was filed on June 20, 2002. However, on October 4, 2002, the Office of Initial Patent Examination mailed the Notice stating that the application had been accorded a filing date of June 20, 2002 and advising applicant that figure 15 described in the specification appeared to have been omitted.

In response, the present petition was filed on October 18, 2002 wherein petitioner contends figures 15 was filed June 20, 2002. In support, the petition is accompanied by a copy of applicant's return postcard which lists "Drawings 8pp". The petition is further accompanied by a substitute drawing of figure 15.

Applicant's postcard receipt is prima facie evidence that 8 sheets of drawings including 1 sheet containing figure 15 was received on June 20, 2002, but figure 15 was not present in the file. Hence, it is clear that the papers for this application were mishandled by the Office. Therefore, it is concluded that one sheet of drawing containing figures 15 was received on June 20, 2002, as shown in counsel's file, and later misplaced in the office.

The petition is Granted.

Since the original figure 15 cannot be located in the Office, figure 15 supplied on October 18, 2002, will be used for processing and examination purposes.

Deposit account no. 50-1924 will be credited with the $130.00 petition fee.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of June 20, 2002, using the 1 sheet of substitute drawing including figure d 15 supplied on October 18, 2002.

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

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

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Kenneth L. Sherman, Esq.
Myers, Dawes, Andras & Sherman
19900 MacArthur Boulevard
Suite 1150
Irvine, CA 92612

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OFFICE OF PETITIONS

In re Application:	:	
Richard Humpleman et al.	:	
Application No. 10/177,232	:	NOTICE
Filed: June 21, 2002	:	
Attorney Docket No. MET1.0036	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed August 31, 2009. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted. The petition is **GRANTED**.

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

This file is being forwarded to Files Repository.

Telephone inquiries related to this decision should be directed to the Kimberly Inabinet at (571) 272-4618.

Carl Friedman
Petitions Examiner
Office of Petitions

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INTELLECTUAL PROPERTY GROUP
FREDRIKSON & BYRON, P.A.
200 SOUTH SIXTH STREET, SUITE 4000
MINNEAPOLIS, MN 55402

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OFFICE OF PETITIONS

In re Application of :
Howard I. Maibach et al :
Application No. 10/177,250 :
Filed: June 21, 2002 :
Attorney Docket No. 3200-0002.32 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 26, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 11/585,586.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $510 extension of time submitted with the petition on October 26, 2006 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

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Paper No. 41405

William R. McClellan
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston MA 02210

APR 26 2005

In re Application of:
Brian Stephens
Serial No.: 10/177,256
Filed: June 21, 2002
Attorney Docket No.: **E00383.70002.US**

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the communication filed April 11, 2005. The communication has been treated as a petition under 37 CFR § 1.181, to withdraw the holding of abandonment in the above-identified application. No petition fee is required.

The petition is **GRANTED**.

The application was held abandoned for the failure to timely file a response to the final Office action mailed on June 09, 2004. A Notice of Abandonment was mailed on March 16, 2005.

Petitioner asserts that on December 09, 2004, a response, including a request for a three-month extension of time and a Notice of Appeal, was timely filed in the above-identified application. To support this assertion, petitioner has submitted a copy of the response bearing a certificate under 37 CFR § 1.8(a), signed and dated December 9, 2004, and a copy of a return postcard, which acknowledges receipt in the USPTO of the response on December 13, 2004.

A review of the application file reveals the above noted response was matched with the application file wrapper at the time of mailing of the Notice of Abandonment. Since the time period associated with the Notice of Appeal within which to file an Appeal Brief may be extended an additional five (5) months, the mailing of the Notice of Abandonment on March 16, 2005, appears to be premature.

For the above stated reason, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the examiner of record to wait for the filing of the Appeal Brief.

Inquiries regarding this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

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

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Paper No: __

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JORGE OSVALDO AMBORT
5506 JORDAN ROAD
BETHESDA MD 20816

In re Application of	:	
Ambort	:	DECISION
Application No.: 10/177,268	:	
Filing Date: 24 June, 2002	:	
Attorney Docket No. (None)	:	

This is a decision on the successive papers considered as a petition filed on 9 May and 9 June, 2006, to withdraw the holding of abandonment and is considered under 37 C.F.R. §1.181, alternatively a petition alleging unavoidable delay under 37 C.F.R. §1.137(a) in light of the payment of a petition fee.

For the reasons set forth below the petition as considered under 37 C.F.R. §1.181is **DISMISSED**, and as considered under 37 C.F.R. §1.137(a) 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"–or,

(2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record reflects that:

- Petitioner failed to reply to a non-final Office action mailed on 11 March, 2004, with reply due absent an extension of time on or before 11 June, 2004;

- the application went abandoned by operation of law after midnight 11 June, 2004;

- the Office mailed the Notice of Abandonment on 7 December, 2005;

- on 9 May and 9 June, 2006, Petitioner filed papers averring, *inter alia*, that he was "working in Europe"[1] and that he was ill[2]–alternately that he did not receive the Office action and that he disagreed with the Examiner–further, Petitioner enclosed what appears to be reply in the form of an amendment, however, it is noted that should the Examiner again find the reply to be non-conforming or otherwise improper, the application may again be deemed to be abandoned;

- the conflicts in Petitioner's statements reasonably ensure that neither allegation (non-receipt or unavoidable delay) can be accepted, and, at any rate, he makes no showing of unavoidable delay (see: MPEP §711.02(c)) and his showing as to the request to withdraw the holding of abandonment, even if not in conflict with other statements, is unsupported;

- out of an abundance of caution, Petitioner is 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 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.[3]

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[1] This statement is made in the letter dated 1 May but not filed until 9 May, 2006.

[2] This statement is made in the letter dated 16 May but not filed until 9 June, 2006.

[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

Petitioner's submissions suggest a lack of familiarity with practice before the Office.

Petitioner may wish to seek the guidance of one registered to practice before the Office, which information may be found at www.uspto.gov.

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

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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.

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]

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

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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).

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

Thus, as of this writing Petitioner appears not to have satisfied the showing requirements described above–particularly in light of the conflicts in Petitioner's statements. Moreover, Petitioner did not file the request timely.

Allegations as to
Unavoidable Delay

The requirements for the granting of a petition under 37 C.F.R. §1.137(a) are a petition, fee, reply, showing of unavoidable delay, and–where appropriate–a terminal disclaimer and fee.

Petitioner has not satisfied–and appears unable to satisfy–the showing requirement under the regulation.

CONCLUSION

Because 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**; moreover, the petition as considered under 37 C.F.R. §1.137(a) is **dismissed**.

ALTERNATIVE VENUE

Petitioner's only alternative to irretrievable abandonment may be a petition alleging unintentional delay under 37 C.F.R. §1.137(b).[11]

Petitioner may wish to file such 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:[12]

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[11] The regulations at 37 C.F.R. §1.183 sets forth that waiver of the rules is "subject to such other requirements as may be imposed."

[12] 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 .)

By mail: Commissioner for Patents[13]
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 concerning this decision may be directed to the undersigned at (571) 272-3214.

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

[13] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

UNITED STATES 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: __

JORGE OSVALDO AMBORT
5506 JORDAN ROAD
BETHESDA MD 20816

COPY MAILED

MAR 0 1 2007

OFFICE OF PETITIONS

In re Application of	:	
Ambort	:	DECISION
Application No.: 10/177,268	:	
Filing Date: 24 June, 2002	:	
Attorney Docket No. (None)	:	

This is a decision on a renewed petition filed on 31 July, 2006–this 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 to a non-final Office action mailed on 11 March, 2004, with reply due absent an extension of time on or before 11 June, 2004;
- the application went abandoned by operation of law after midnight 11 June, 2004;
- the Office mailed the Notice of Abandonment on 7 December, 2005;
- on 9 May and 9 June, 2006, Petitioner filed papers averring, *inter alia*, that he was

"working in Europe"[1] and that he was ill[2]–alternately that he did not receive the Office action and that he disagreed with the Examiner–further, Petitioner enclosed what appeared to be reply in the form of an amendment (it is noted that should the Examiner again find the reply to be non-conforming or otherwise improper, the application may again be deemed to be abandoned); the conflicts in Petitioner's statements reasonably ensured that neither allegation (non-receipt or unavoidable delay) could accepted, and, in any case, Petitioner made no showing of unavoidable delay (see: MPEP §711.02(c)) and his showing as to the request to withdraw the holding of abandonment, even if not in conflict with other statements, was unsupported–thus the petitions were dismissed on 19 June, 2006;

- the instant petition is alleged under 37 C.F.R. §1.137(b) (allegation of unintentional delay), and Petitioner so seeks to overcome the deficiencies of the earlier filing.

Petitioner's submissions suggest a lack of familiarity with practice before the Office.

Petitioner may wish to seek the guidance of one registered to practice before the Office, which information may be found at www.uspto.gov.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on

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[1] This statement is made in the letter dated 1 May but not filed until 9 May, 2006.

[2] This statement is made in the letter dated 16 May but not filed until 9 June, 2006.

[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.

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]))

Allegations as to
Unintentional Delay

The requirements for the granting of a petition under 37 C.F.R. §1.137(b) are a petition, fee, reply, showing/statement of unintentional delay, and–where appropriate–a terminal disclaimer and fee.

It appears that Petitioner has satisfied the requirement under the regulation.

CONCLUSION

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

The instant file is released to Technology Center 3600 for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571)

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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.

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

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
PO BOX 1450, ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

MAY 7 2003

COUDERT BROTHERS
ATTN: LEWIS REFF
1114 AVENUE OF THE AMERICAS
NEW YORK NY 10036

#11

In re Application of	:
Howard S. Stern	:
Serial No.: 10/177,276	: PETITION TO MAKE SPECIAL
Filed: June 21, 2002	:
Attorney Docket No.: 0008913.0002	:

This is in response to applicants' petition filed November 12, 2002, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII. Therefor the petition is **GRANTED**.

The following condition applies to the grant of this petition: If, upon examination, it is determined that a restriction requirement is necessary because of multiple inventions being claimed, applicant will be required to make an election without traverse of a single invention to be prosecuted. Failure to make an election without traverse will void the special status accorded in this decision.

The application will be forwarded an the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, Washington, DC 20231, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 305-7230

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

MAR 23 2010

OFFICE OF PETITIONS

MCCARTER & ENGLISH, LLP BOSTON
265 Franklin Street
Boston MA 02110

In re Application of	:	
Lillie et al.	:	DECISION ON APPLICATION
Application No. 10/177,293	:	FOR PATENT TERM ADJUSTMENT
Filed: June 21, 2002	:	
Attorney Docket No. 117742-03803	:	

This is in response to the "Application for Patent Term Adjustment Including Request for Reconsideration Under 37 C.F.R. § 1.705(B)" filed September 25, 2009. Applicants request the initial determination of patent term adjustment be corrected from three hundred seventy-four (374) days to eight hundred eleven (811) days.

The request for reconsideration of the initial determination of patent term adjustment is **granted to the extent indicated herein**.

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is 336 days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On June 26, 2009, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicants were advised of a patent term adjustment to date of 374 days. In response, applicants timely filed this application for patent term adjustment with payment of the issue fee on September 25, 2009.

Applicants assert the patent term adjustment should be:

(1) Increased by 475 days for delay under 35 U.S.C. § 154(b)(1)(B) ("B delay"),
(2) Increased by 88 days for delay under 37 C.F.R. § 1.702(a)(2) in responding to the amendment filed April 5, 2007, and
(3) Reduced by 126 days for delay under 37 C.F.R. § 1.704(c)(7) resulting from the filing of a reply with an omission on November 30, 2006.

B Delay

To the extent applicants request reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the request is premature.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years.

See 37 C.F.R. § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the 37 C.F.R. § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 C.F.R. § 1.702(a)(4) or applicant delay under 37 C.F.R. § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 C.F.R. § 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature.

Rather than file an application for patent term adjustment under 37 C.F.R. § 1.705(b) contesting the 37 C.F.R. § 1.702(b) calculation at the time of the mailing of the notice of allowance, an applicant may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 C.F.R. § 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 C.F.R. § 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 C.F.R. § 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 C.F.R. § 1.705(d) and must include payment of the required fee under 37 C.F.R. § 1.18(e).

Office Delay Under 37 C.F.R. § 1.702(a)(2)

Applicants state the patent term adjustment should have included an increase of 88 days for Office delay under 37 C.F.R. § 1.702(a)(2) in responding to the amendment filed April 5, 2007.

Pursuant to 37 C.F.R. § 1.702(a)(2), the period of adjustment includes:

> The number of days, if any, in the period beginning on the day after the date that is four months after the date a reply under § 1.111 was filed and ending on the

[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.

> date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first.

On April 5, 2007, Applicants filed a reply to an Office action. On November 1, 2007, the Office mailed a non-final Office action in response to the April 5, 2007 reply.

Based on the facts above, the Office agrees entry of an adjustment of 88 days for Office delay under 37 C.F.R. § 1.702(a)(2) is appropriate.

The Office has entered an adjustment of 88 days into PALM records for Office delay under 37 C.F.R. § 1.702(a)(2).

Applicant Delay Under 37 C.F.R. § 1.704(c)(7)

Applicants state a reduction of 126 days should have been entered for delay under 37 C.F.R. § 1.704(c)(7) resulting from the filing of a reply with an omission on November 30, 2006.

Pursuant to 37 C.F.R. § 1.704(c)(7), circumstances that constitute a failure to engage in reasonable efforts to conclude processing or examination of an application include:

> 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 Office mailed a final Office action on July 3, 2006. Applicants filed a RCE and an amendment on November 30, 2006. On March 5, 2007, the Office mailed an Office action indicating the amendment filed with the RCE was non-responsive. A new amendment was filed on April 5, 2007.

Based on the facts above, the Office agrees entry of a reduction of 126 days for applicants' delay under 37 C.F.R. § 1.704(c)(7) is appropriate.

The Office has entered a reduction of 126 days into PALM records for applicants' delay under 37 C.F.R. § 1.704(c)(7).

Conclusion

The Office has entered an adjustment of 88 days for delay under 37 C.F.R. § 1.702(a)(2) and a reduction of 126 days for delay under 37 C.F.R. § 1.704(c)(7).

In view of the prior discussion, the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) mailed with the Notice of Allowance should have advised of a patent term adjustment to date of 336 days.

Applicants are reminded that any delays by the Office pursuant to 37 C.F.R. §§ 1.702(a)(4) and 1.702(b) and any applicant delays under 37 C.F.R. § 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The $200.00 fee set forth in 37 C.F.R. § 1.18(e) has been charged to the deposit account identified in the instant request for reconsideration of patent term adjustment. No additional fees are required.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of REVISED PALM screen

Day : Monday
Date: 3/22/2010

PALM INTRANET

Time: 14:18:40

PTA Calculations for Application: 10/177293			
Application Filing Date:	06/21/2002	PTO Delay (PTO):	721
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	347
Post-Issue Petitions:	0	Total PTA (days):	336
PTO Delay Adjustment:	-38		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
102	03/22/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		38	
89	06/26/2009	MAIL NOTICE OF ALLOWANCE			
88	06/25/2009	ISSUE REVISION COMPLETED			
84	06/24/2009	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
83	06/24/2009	DOCUMENT VERIFICATION			
82	06/24/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
81	06/24/2009	CASE DOCKETED TO EXAMINER IN GAU			
80	06/22/2009	NOTICE OF ALLOWABILITY			
79	06/09/2009	MISCELLANEOUS INCOMING LETTER			
78	06/10/2009	DATE FORWARDED TO EXAMINER			
77	06/09/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
76	06/10/2009	DATE FORWARDED TO EXAMINER			
75	06/09/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
74	06/10/2009	DISPOSAL FOR A RCE / CPA / R129			
73	06/09/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
72	06/09/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
71	03/06/2009	MISCELLANEOUS INCOMING LETTER			
70	02/09/2009	NOTICE OF APPEAL FILED		94	59
69	02/09/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
68	02/23/2009	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
		EXAMINER INTERVIEW SUMMARY RECORD			

67	02/10/2009	(PTOL - 413)			
66	02/06/2009	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
64	01/14/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
63	10/24/2008	MAIL ADVISORY ACTION (PTOL - 303)			
62	10/23/2008	ADVISORY ACTION (PTOL-303)			
61	10/16/2008	DATE FORWARDED TO EXAMINER			
60	10/07/2008	AMENDMENT AFTER FINAL REJECTION			
59	08/07/2008	MAIL FINAL REJECTION (PTOL - 326)			
58	08/01/2008	FINAL REJECTION			
57	05/01/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
55	05/28/2008	DATE FORWARDED TO EXAMINER			
54	05/01/2008	RESPONSE AFTER NON-FINAL ACTION		90	48
53	05/01/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
52	05/01/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
51	05/01/2008	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
50	05/01/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
49	01/31/2008	CASE DOCKETED TO EXAMINER IN GAU			
48	11/01/2007	MAIL NON-FINAL REJECTION			
47	10/29/2007	NON-FINAL REJECTION			
46	09/05/2007	CORRESPONDENCE ADDRESS CHANGE			
45	04/05/2007	PRELIMINARY AMENDMENT			
44	03/05/2007	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
43	03/01/2007	MISCELLANEOUS ACTION WITH SSP			
42	11/30/2006	MISCELLANEOUS INCOMING LETTER			
41	12/26/2006	DATE FORWARDED TO EXAMINER			
40	11/30/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
39	12/26/2006	DATE FORWARDED TO EXAMINER			
38	11/30/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)		61	34
37	12/26/2006	DISPOSAL FOR A RCE / CPA / R129			
36	11/30/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			

35	11/30/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
34	06/30/2006	MAIL FINAL REJECTION (PTOL - 326)			
33	06/27/2006	FINAL REJECTION			
32	11/16/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
31	05/04/2006	DATE FORWARDED TO EXAMINER			
30	05/01/2006	RESPONSE AFTER NON-FINAL ACTION		32	28
29	05/01/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
28	12/30/2005	MAIL NON-FINAL REJECTION			
27	11/16/2005	REFERENCE CAPTURE ON IDS			
26.7	11/16/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		62	23
26	11/16/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
25	11/07/2005	NON-FINAL REJECTION			
24	09/26/2005	DATE FORWARDED TO EXAMINER			
23	09/15/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
22	09/15/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
21	08/11/2005	MAIL RESTRICTION REQUIREMENT	721		-1
20	08/08/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
19	12/19/2003	CORRESPONDENCE ADDRESS CHANGE			
18	10/28/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
17	03/28/2003	CASE DOCKETED TO EXAMINER IN GAU			
16	02/28/2003	APPLICATION DISPATCHED FROM OIPE			
15	02/26/2003	APPLICATION IS NOW COMPLETE			
14	02/06/2003	ADDITIONAL APPLICATION FILING FEES		8	7
13	02/06/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
11	02/06/2003	ADDITIONAL APPLICATION FILING FEES			
10	02/06/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
9	02/06/2003	ADDITIONAL APPLICATION FILING FEES			
8	02/06/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC			

		115, OATH OF THE APPLIC			
7	10/29/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
6	06/21/2002	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
5	09/30/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
4	09/26/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
3	07/24/2002	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
2	06/21/2002	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	06/21/2002	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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MICROSOFT CORPORATION
ATTN: PATENT GROUP DOCKETING DEPARTMENT
ONE MICROSOFT WAY
REDMOND WA 98052-6399

MAILED

JUL 13 2006

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
CUTLER, ROSS
Serial No.: **10/177,315**
Filed: June 21, 2002
For: **SYSTEM AND METHOD FOR CAMERA COLOR CALIBRATION AND IMAGE STITCHING**

DECISION ON PETITION
TO ACCEPT COLOR DRAWINGS

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed, June 5, 2003, requesting acceptance of color 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 under 37 C.F.R. §1.84(a)(2) filed on June 5, 2003 alleges that 3 (three) sets of color drawings were filed. Unfortunately, the Office can not locate those three (3) sets and thus the petition is **DENIED** as not complying with the requirements of 37 C.F.R. § 1.17(h).

If the drawings were in fact filed with the petition of June 5, 2003 and subsequently misplaced, the Office regrets the inconvenience to applicant. However, a supplement to the original petition is requested (no fee required), which includes three complete sets of colored drawings.

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
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Paper No. 4

Michael C. Staggs
Assistant Laboratory Counsel
Lawrence Livermore National Laboratory
P.O. Box 808, L-703
Livermore CA 94551

COPY MAILED

SEP 23 2002

OFFICE OF PETITIONS

In re Application of
Dane et al.
Application No. 10/177,339
Filed: June 21, 2002
Attorney Docket No. IL-10872

DECISION ON PETITION

This is a decision on the petition filed July 19, 2002, requesting that the above-identified application be accorded a filing date of June 21, 2002, with Figure 4 as part of the original disclosure.

On June 21, 2002, applicants filed the above-identified application. However, on July 15, 2002, the Office of Initial Patent Examination mailed a "Notice to File Corrected Application Papers" (Notice), stating that the application had been accorded a filing date of June 21, 2002, and requiring applicants to submit substitute drawings in compliance with 37 CFR 1.84. Additionally, the Notice advised applicants that Figure 4 described in the specification appeared to have been omitted.

In response, on July 19, 2002, applicants filed the present petition, a drawing of Figure 4, and the petition fee. In the present petition, applicants admitted that Figure 4 was inadvertently omitted during the mailing of the original application papers. Applicants requested that the application be accorded a filing date of June 21, 2002, with Figure 4 as part of the original disclosure. Applicants asserted that Figure 4 is fully described in detail in the specification and does not constitute new matter.

As applicants admitted, Figure 4 was not present on June 21, 2002, the date the application was filed. For this reason, the application cannot be accorded the filing date of June 21, 2002, with the drawing of Figure 4 as a part of the original disclosure.

Accordingly, the petition is dismissed.

Figure 4, submitted with the present petition on July 19, 2002, will not be entered at this time. However, applicants' may file a preliminary amendment with the primary examiner requesting entry of Figure 4.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of June 21, 2002, using the drawing sheets containing Figures 1-3 that were filed on that date, and indicating in the Office records that three (3) sheet of drawings were present on filing.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Christina Tartera Donnell 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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Paper No. 4

SCHERING-PLOUGH CORPORATION
PATENT DEPARTMENT (K-6-1, 1990)
2000 GALLOPING HILL ROAD
KENILWORTH, NJ 07033-0530

COPY MAILED

OCT 2 3 2002

OFFICE OF PETITIONS

In re Application of :
Stamford et al. :
Application No. 10/177,345 : ON PETITION
Filed: June 20, 2002 :
Attorney Docket No. CN01367K1 :

This is a decision on the petition filed August 22, 2002, to accord the above-identified application a filing date of June 20, 2002, instead of June 24, 2002.

Paragraph (c) of 37 CFR 1.10 sets forth procedures for filing a petition for a filing date where there is a discrepancy between the filing date initially accorded by the Office and the "date-in" entered by the USPS. Paragraph (d) of 37 CFR 1.10 sets forth procedures for filing a petition for a filing date where the "date-in" is incorrectly entered or omitted by the USPS.

Petitioner has failed to provide evidence establishing the "date-in" entered by the USPS. Specifically, petitioner has failed to provide the PTO with a copy of the express mail label. Since a copy of an express mail label has not been provided, petitioner has failed to establish the "date-in" entered by the USPS. Therefore, petitioner has failed to establish a discrepancy between the filing date accorded by the Office and the "date-in" entered by the USPS. In addition, petitioner has failed to establish that the "date-in" was incorrectly entered or omitted by the USPS.

Petitioner has supplied the results of a search of an USPS database along with a receipt. The search results indicate the package was accepted by the USPS at 4:38 pm on June 20, 2002. Therefore, the petition is **granted**. In the future, petitioner should take steps to receive an express mail label with a clear date-in, and not rely solely on possible database results.[1] If the Office receives a label with an omitted or illegible date-in, the Office will give the application a filing date of the date the package is received, unless a petition is filed. A petition involves additional work by petitioner and the Office, and also delays prosecution of the application into a patent.

Since relief has been granted under 37 CFR 1.10, the petition fee of $130 will be credited to petitioner's deposit account.

---

[1] Paragraph (b) of 37 CFR 1.10 provides,

Correspondence should be deposited directly with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the "Express Mail" mailing label with the "date-in" clearly marked. Persons dealing indirectly with the employees of the USPS (such as by deposit in an "Express Mail" drop box) do so at the risk of not receiving a copy of the "Express Mail" mailing label with the desired "date-in" clearly marked.

The file is now being forwarded to the Office of Initial Patent Examination to accord the application a filing date of June 20, 2002.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Paper No. 3

SCHERING-PLOUGH CORPORATION
PATENT DEPARTMENT (K-6-1, 1990)
2000 GALLOPING HILL ROAD
KENILWORTH NJ 07033-0530

COPY MAILED

NOV 25 2002

OFFICE OF PETITIONS

In re Application of :
Salmun et al. :
Application No. 10/177,366 : DECISION ON PETITION
Filed: June 20, 2002 :
Attorney Docket No. AL01440X :

This is a decision on the petition filed October 7, 2002, requesting that the above-identified application be accorded a filing date of June 20, 2002, rather than the presently accorded filing date of June 24, 2002.

Petitioner alleges that the above-identified application was deposited in Express Mail service on June 20, 2002. The petition is accompanied by a copy of Express Mail receipt No. EV078291500US. Although the "date-in" on the Express Mail receipt is June 30, 2002, the USPTO's USPS Database indicates that the package was deposited on June 20, 2002 at 4:39 PM. Additionally, petitioner submitted a copy of counsel's "Express Mail Corporate Account Mailing Statement," which indicated that counsel's account was charged for Express Mail service for a package bearing Express Mail receipt No. EV078291500US on June 20, 2002. The same Express Mail receipt number was placed on the original application papers located in the official file.

In view of the above, the petition is **granted**.

No petition fee is required. Therefore, Deposit Account No. 19-0365 will be credited $130.00, as authorized by petitioner.

This application file will be forwarded to the Office of Initial Patent Examination for correction of the filing date to June 20, 2002, and for mailing of a corrected filing receipt.

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

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Paper No. 8

GENENCOR INTERNATIONAL, INC.
ATTENTION: LEGAL DEPARTMENT
925 PAGE MILL ROAD
PALO ALTO, CA 94304

COPY MAILED
APR 0 7 2004
OFFICE OF PETITIONS

In re Application of :
David A. Estell :
Application No. 10/177,412 :
Filed: June 21, 2002 : ON PETITION
Attorney Docket No.: :
GC390-US-D1 :

This is a decision on the petition under 37 CFR 1.137(a), filed March 1, 2004, to revive the above-identified application. The petition is properly treated as a petition under 37 CFR 1.181, to withdraw the holding of abandonment.

The petition is **granted.**

The above-identified application became abandoned for failure to timely reply to the Notice to File Corrected Application Papers (hereinafter "Notice"), mailed July 25, 2003. The Notice required a substitute specification, and set a two (2) month period for reply. No reply having been received, the above-identified application became abandoned Septmeber 26, 2003. A Notice of Abandonment was mailed on February 2, 2004.

Applicant's Assertion

Applicant asserts that a timely reply to the Notice, in the form of a substitute specification, was filed and received in the Office. In support of this assertion, Applicant provides a copy of the substitute specification, a copy of a transmittal letter noting that a corrected application in response to the Notice was filed on February 14, 2002[1], and a copy of a return-receipt postcard acknowledging, *intern alia*, receipt by this Office of a corrected application of 26 pages.

[1]While the Certificate of Mailing is dated February 14, 2002, the Transmittal Letter is signed by Richard T. Ito and is also dated September 3, 2002.

Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self-addressed postcard properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the postcard in the outgoing mail. "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503.

In view of the above, the abandonment and holding of abandonment of the above-identified application are hereby withdrawn. No fee has been charged, and none is due.

The application is being returned to the Office of Initial Patent Examination for continued processing in due course.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/16/08

TO SPE OF : ART UNIT 2619

SUBJECT : Request for Certificate of Correction for Appl. No.: 10177496 Patent No.: 7382787 B1

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
You can fax the Directors/SPE response to 571.270.9990

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: _____

JAY K. PATEL
SUPERVISORY PATENT EXAMINER

SPE 2619 Art Unit

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Paper No. 8

S. Pal Asija
7 Woonsocket Avenue
Shelton, CT 06484

COPY MAILED
FEB 25 2004
OFFICE OF PETITIONS

In re Application of :
James Martin, et al. :
Application No. 10/177,507 : ON PETITION
Filed: June 24, 2002 :
Attorney Docket No. :

This is a decision on the petition under 37 CFR 1.137(a), filed February 17, 2004, to revive the above-identified application.

The petition is **DISMISSED.**

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

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed;[1] (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c). The instant petition lacks item (1) and (3).

A Notice to File Missing Parts (Notice) was mailed to applicant on July 23, 2002, setting a two-month period within which to submit a reply. Since no reply was received and no extensions of time under the provisions of 37 CFR 1.136 were obtained, the application became abandoned on September 24, 2002.

---

[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.

The Notice required an executed oath or declaration from co-inventor, Al Casini. Petitioner has now obtained the signature of Mr. Casini. However, the oaths or declarations, filed with the original application papers and with the instant petition, do not comply with the requirements of 37 CFR 1.63 in that they lack the citizenship of each inventor and they do not 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. Accordingly, a supplemental oath or declaration is required to correct the deficiencies noted above. A blank oath or declaration form is enclosed for petitioner's use.

Petitioner asserts that the lack of cooperation from the co-inventor Al Casini was the cause of delay in submitting a timely reply to the Notice.

The showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 35 U.S.C. § 151 and 37 CFR 1.137(a). See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay. Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

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 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."

While petitioner's dilemma is appreciated, petitioner could have filed a petition under 37 CFR 1.47 to file an oath or declaration when an inventor refuses to sign or cannot be reached in reply to the Notice. Doing so could have prevented the application from becoming abandoned. The nonsigning inventor could have joined the application at a later time once the issues between the two inventors were resolved and Mr. Casini was willing to sign. In view thereof, petitioner's argument has been considered but is not persuasive to establish unavoidable delay.

Petitioner should consider filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $665 petition fee.

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

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

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

Effective December 1, 2003, the Office of Petitions can no longer receive hand-carried correspondence, or facsimile transmissions of correspondence. The centralized location for hand-carried correspondence is the Customer Window located at:

2011 South Clark Place
Crystal Plaza Two Lobby
Room 1B03
Arlington, VA 22202

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

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

Marianne E. Morgan

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

Enclosure: Blank Oath or Declaration Form

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 12

S. Pal Asija
7 Woonsocket Avenue
Shelton, CT 06484

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OFFICE OF PETITIONS

In re Application of	:	
James Martin, et al.	:	
Application No. 10/177,507	:	ON PETITION
Filed: June 24, 2002	:	
Attorney Docket No. N/A	:	

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

The petition is **GRANTED**.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 9, 2009

TO SPE OF : ART UNIT 2853 - Stephen D. Meier

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/177,524 Patent No.: 6,899,422 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

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: OK

STEPHEN MEIER 2853
SUPERVISORY PATENT EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 6

John Wiley Horton, Attorney
Pennington, Moore, Wilkinson,
Bell & Dunbar, P.A.
P. O. Box 10095
Tallahassee FL 32302-2095

COPY MAILED

NOV 05 2004

OFFICE OF PETITIONS

In re Application of	:
Hofer and Colson	:
Application No. 10/177,531	: DECISION ACCORDING STATUS
Filed: June 21, 2002	: UNDER 37 CFR 1.47(a)
For: Gas Diffuser Ocean Water	:
Lifting Method and Device	:

This is in response to the petition under 37 CFR 1.47(a), filed February 17, 2004. The application was recently forwarded to the Office of Petitions for a decision on the merits. The Office apologizes for any inconvenience.

The petition is granted.

Applicant has shown that John W. Colson, the non-signing inventor, cannot be located after diligent efforts were made to obtain his signature on the declaration.

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

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

The matter is being referred to Technology Center 3600 for examination in due course.

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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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John W. Colson
5392B Dawn Court
Tallahassee, FL 32303

COPY MAILED

NOV 0 5 2004

OFFICE OF PETITIONS

In re Application of	:	
Hofer and Colson	:	
Application No. 10/177,531	:	LETTER
Filed: June 21, 2002	:	
For: Gas Diffuser Ocean Water	:	
Lifting Method and Device	:	

Dear Mr. Colson:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor. As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

John Wiley Horton, Attorney
Pennington, Moore, Wilkinson,Bell & Dunbar, P.A.
P. O. Box 10095
Tallahassee FL 32302-2095

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

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JUN 18 2007

OFFICE OF PETITIONS

In re Application of	:	
Nobuaki Usui et al	:	
Application No. 10/177,533	:	ON PETITION
Filed: June 24, 2002	:	
Attorney Docket No. 020815	:	

This is a decision on the petition, filed June 15, 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 May 9, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2625 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OFFICE OF PETITIONS

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

In re Application of
Yu et al.
Application No. 10/177,534
Filed: June 21, 2002
Attorney Docket No. 38481-8024US

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition filed December 12, 2002 under 37 CFR. §1.47(a).

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

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the 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 21, 2002, without an executed oath or declaration. Accordingly, on July 18, 2002, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration in compliance with §1.63, and a surcharge for its late filing. This Notice set an extendable two-month period for reply of September 18, 2002.

In reply, applicant filed a petition, the surcharge for late filing of the declaration, and a partially executed declaration. To make the reply timely, a three (3) month extension of time was also submitted. In support of the petition, applicants submitted a statement of facts, copies of correspondence to non-signing inventor and the declaration of co-inventor Jai Yu .

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

As to item (1), rule 47 applicant has failed to show that co-inventor Choi was ever presented with a copy of the application papers. Before a refusal can be alleged, applicant must demonstrate a bona fide attempt was made to present a copy of application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. See MPEP 409.03(d). The statement of facts indicates only the declaration and assignment documents were sent to inventor Choi. Inventor Choi must be presented with the opportunity to sign the application papers before rule 47 status will be granted.

As to item (2), although rule 47 applicant has provided the last known address of inventor Choi, the last known address in the petition does not correspond with the address provided on the declaration. Petitioner should refer to 37 CFR 1.67 (2) and (3).

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

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

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

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA 22202

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 9

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

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OFFICE OF PETITIONS

In re Application of
Yu et al.
Application No.10/177,534
Filed: June 21, 2002
Attorney Docket Number: 38481-8024US
Title of Invention: TASK BASED USER INTERFACE

ON RENEWED PETITION

This is in response to the renewed petition under 37 CFR 1.47(a), filed January 29, 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).

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

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 04/26/2010

Applicant	: Jai Yu	: DECISION ON REQUEST FOR
Patent Number	: 7640548	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/177,534	: 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 **989** 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.

#12

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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JUL 22 2003

Office of the Director
Group 3600

Grossman & Flight, LLC.,
20 North Wacker Drive
Suite 4220
Chicago, IL 60606

In re application of
Norbert Fluhr, et al
Application No. 10/177,543
Filed: June 21, 2002
For: HAND-HELD FIREARM WITH A COMBINATION LOCK

DECISION ON PETITION TO REVIEW AN ELECTION OF SPECIES REQUIREMENT

This is a decision on the petition under 37 CFR 1.144, received on June 13, 2003 for review of the restriction requirement.

The petition is **GRANTED**.

Applicants' argument that the claims were not directed to the two species identified by the examiner is persuasive. A review of the claims do not indicate two distinct species, but rather a combination lock attachable to a firearm and which manipulates a trigger arm as opposed to a combination lock attachable to a firearm. The second mentioned claim at best is considered to be generic to the first mentioned claim.

It is noted that applicants' argument that the examiner must indicate reasons for distinctness and independent inventions in a species requirement is not well-taken. MPEP 802.02 defines three separate types of restriction requirements; distinct inventions, independent invention and election of species. The requirements for demonstrating a distinct or independent invention are not required for an election of species. . The requirements for making an election of species are found in MPEP 809.02(a).

The application will be forwarded to examiner Thomson for consideration of the non-elected claims in view of this decision.

Any questions or comments with respect to this decision should be forwarded to Michael J. Carone at (703) 306-4198.

Donald T. Hajec, Director
Technology Center 3600
(703) 306-4180
(703) 306-4598 (facsimile)

DTH:mjc:7/16/03

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16TH FLOOR
ST. LOUIS MO 63102

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JAN 30 2006

OFFICE OF PETITIONS

In re Application of :
James D. Jacobson et al :
Application No. 10/177,544 :
Filed: June 21, 2002 :
Attorney Docket No. EIP 5837 (BXTE-12002) :

ON PETITION

This is a decision on the petition, filed January 27, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 16, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3763 will consider the request for continued examination under 37 CFR 1.114.

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

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

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ALEXANDRIA, VA 22313-1450
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Paper No. _____

Date : January 30, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

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JAN 30 2006
OFFICE OF PETITIONS

Applicant(s) :James D. Jacobson et al
Application No. :10/177,544
Filed :June 21, 2002

The above-identified application has been assigned Patent No. 6,997,895 and an issue date of February 14, 2006.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of February 14, 2006:

"All reference to Patent No. 6,997,895 to James D. Jacobson et al of Illinois for METHOD AND APPARATUS FOR CLOSED-LOOP FLOW CONTROL SYSTEM appearing in the Official Gazette of February 14, 2006 should be deleted since no patent was granted."

Karen Creasy

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

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89
Tamara Greene, ST-8C13

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FISH & RICHARDSON P.C.
P.O. Box 1022
MINNEAPOLIS MN 55440-1022

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JUL 18 2008

In re Application of	:	
Robert M. Ayers	:	DECISION ON APPLICATION
Application No. 10/177,576	:	FOR
Filed: June 21, 2002	:	PATENT TERM ADJUSTMENT
Atty Docket No. 07844-539001	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER § 1.705(B)," filed on November 28, 2007. Applicant requests that the patent term adjustment at the time of the mailing of the Notice of Allowance be corrected from four hundred eighty (480) days to four hundred eighty-one (481) 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 FIFTY-ONE (351) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On August 28, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 480 days. The instant application for patent term adjustment was timely filed.

Applicant asserts that a PTA adjustment should be made to reduce the applicant delay by one (1) day for the filing of a response to a non-final Office action on December 27, 2005, filed three

(3) months and one (1) day after the mailing date of the non-final Office action mailed on September 26, 2005. Specifically, applicant asserts that the response to the non-final Office action was filed by facsimile on December 27, 2005, but was incorrectly entered in Office records as having been filed on December 28, 2005.

Upon review, applicant's argument is correct in that a review of the Office Image File Wrapper reveals that the response to the non-final Office action mailed on September 26, 2005, was indeed stamped as received in the USPTO on December 27, 2005, but was incorrectly entered in PAIR with a receipt date of December 28, 2005. Accordingly, the patent term adjustment should be reduced by one (1) day, rather than two (2) days, of applicant delay for filing the response three (3) months and one (1) day after the mailing of the non-final Office action.

However, a review of the record also reveals that entry of a period of adjustment of 130 days for Office delay was incorrect. Pursuant to 37 CFR § 1.702(a), failure of the Office to respond to an appeal taken under 35 U.S.C. 134 not later than four months after the date on which the reply was filed or the appeal was taken is a grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999. The phrase "the date on which" an "appeal was taken" in 35 U.S.C. 154(b)(1)(A)(ii) means the date on which an appeal brief (and not a notice of appeal) was filed. The phrase "appeal brief in compliance with 37 CFR 1.192" requires that: (1) the appeal brief fee (37 CFR 1.17(c)) be paid (37 CFR 1.192(a)); and (2) the appeal brief complies with 37 CFR 1.192(c)(1) through (c)(9). Accordingly, 37 CFR 1.703(a)(4) pertains to the provisions of U.S.C. 154(b)(1)(A)(ii) and specifies that the period of adjustment for Office delay includes the number of days, if any, in the period beginning on the day after the date that is four months after the date an appeal brief in compliance with § 1.192 was filed and ending on the date of mailing of any of an examiner's answer under § 1.193, an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first.

In this instance, on December 20, 2006, an appeal brief was filed. On April 10, 2007, a notification of non-compliant appeal brief was mailed, stating that the brief was defective for failure to comply with one or more provisions of 37 CFR

41.37. On May 20, 2007, a corrected appeal brief was filed. The notice of allowance mailed on August 28, 2007, was mailed within four (4) months of May 10, 2007, the date the appeal brief in compliance with 37 CFR 1.192 was filed. Accordingly, there was no basis for entry of a period of adjustment for Office delay. The period of adjustment of 130 days is removed.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is THREE HUNDRED FIFTY-ONE (351) days 406 (536-130) days of PTO delay, reduced by 55 (54+1) days of Applicant delay).

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of adjusted PAIR calculation

Day : Thursday

PALM INTRANET

Date: 7/3/2008
Time: 13:03:28

PTA Calculations for Application: 10/177576			
Application Filing Date:	06/21/2002	PTO Delay (PTO):	536
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	56
Post-Issue Petitions:	0	Total PTA (days):	351
PTO Delay Adjustment:	-129		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
69	07/03/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		1	
68	07/03/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	2		
67	07/03/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		130	
60	08/28/2007	MAIL NOTICE OF ALLOWANCE	130		47
59	08/27/2007	ISSUE REVISION COMPLETED			
58	08/21/2007	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
57	08/21/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
56	08/21/2007	CASE DOCKETED TO EXAMINER IN GAU			
55	08/21/2007	DOCUMENT VERIFICATION			
54	08/20/2007	NOTICE OF ALLOWABILITY			
53	06/12/2007	APPEAL BRIEF REVIEW COMPLETE			
52	06/12/2007	DATE FORWARDED TO EXAMINER			
51	05/10/2007	APPEAL BRIEF FILED			
50	04/10/2007	NOTICE -- DEFECTIVE APPEAL BRIEF			
49	01/29/2007	APPEAL BRIEF REVIEW COMPLETE			
48	01/29/2007	DATE FORWARDED TO EXAMINER			
47.1	12/20/2006	DEFECTIVE / INCOMPLETE APPEAL BRIEF FILED			
47	12/20/2006	APPEAL BRIEF FILED			
46	12/20/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
45	09/21/2006	NOTICE OF APPEAL FILED			
44	09/06/2006	MAIL ADVISORY ACTION (PTOL - 303)			
43	09/01/2006	ADVISORY ACTION (PTOL-303)			
42	08/24/2006	DATE FORWARDED TO EXAMINER			

41	08/21/2006	AMENDMENT AFTER FINAL REJECTION			
40	06/21/2006	MAIL FINAL REJECTION (PTOL - 326)			
39	06/15/2006	FINAL REJECTION			
38	06/05/2006	DATE FORWARDED TO EXAMINER			
37	05/30/2006	AMENDMENT AFTER FINAL REJECTION			
36	03/27/2006	MAIL FINAL REJECTION (PTOL - 326)			
35	03/20/2006	FINAL REJECTION			
34	12/28/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
33	08/24/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
32	01/10/2006	DATE FORWARDED TO EXAMINER			
31	12/28/2005	RESPONSE AFTER NON-FINAL ACTION		2	28
30.7	12/28/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
30	12/28/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
29	10/06/2005	CASE DOCKETED TO EXAMINER IN GAU			
28	09/26/2005	MAIL NON-FINAL REJECTION			
27	09/19/2005	NON-FINAL REJECTION			
26.7	08/24/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		54	24
26	08/24/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
25	07/07/2005	DATE FORWARDED TO EXAMINER			
24	07/01/2005	RESPONSE AFTER NON-FINAL ACTION			
23	04/06/2005	MAIL NON-FINAL REJECTION			
22	04/04/2005	NON-FINAL REJECTION			
21.7	12/10/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	19
21	12/10/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	02/09/2005	DATE FORWARDED TO EXAMINER			
19	12/10/2004	RESPONSE AFTER NON-FINAL ACTION			
18	10/06/2004	CASE DOCKETED TO EXAMINER IN GAU			
17	09/30/2004	MAIL NON-FINAL REJECTION	406		-1
16	09/30/2004	NON-FINAL REJECTION			
15	09/28/2004	CASE DOCKETED TO EXAMINER IN GAU			
14	07/06/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			

13	04/29/2004	REFERENCE CAPTURE ON IDS			
12	01/26/2004	REFERENCE CAPTURE ON IDS			
11.7	06/21/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	06/21/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	06/22/2004	CASE DOCKETED TO EXAMINER IN GAU			
9.7	04/29/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	04/29/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8.7	01/26/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	01/26/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	02/07/2003	CASE DOCKETED TO EXAMINER IN GAU			
6	12/09/2002	TRANSFER INQUIRY TO GAU			
5	12/09/2002	TRANSFER INQUIRY TO GAU			
4	07/24/2002	APPLICATION DISPATCHED FROM OIPE			
3	07/23/2002	APPLICATION IS NOW COMPLETE			
2	07/06/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	06/21/2002	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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MINNEAPOLIS MN 55440-1022

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FEB 09 2009

OFFICE OF PETITIONS

In re Application of	:	
Robert M. Ayers	:	
Patent No. 7,415,452	:	
Issued: August 19, 2008	:	ON REQUEST FOR CERTIFICATE
Application No. 10/177,576	:	OF CORRECTION
Filed: June 21, 2002	:	
Atty Docket No. 07844-539001	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER § 1.705(D)," filed on October 17, 2008, which is being treated as a request for a certificate of correction. Applicant requests that the patent term adjustment be corrected from 970 days to 1100 days.

The request is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by way of issuance of a Certificate of Correction showing a revised Patent Term Adjustment of one thousand one hundred (1100) days.

By decision mailed July 18, 2008, the application for patent term adjustment filed November 28, 2007 was granted. However, on August 19, 2008, the above-identified patent issued with a patent term adjustment of 970 days. On October 17, 2008, the instant request was filed.

Patentees aver that the correct patent term adjustment is 1100 days, and that an incorrect patent term adjustment was printed on the patent in error.

Patentees are correct. Pursuant to the decision of July 18, 2008, the patent term adjustment calculation was adjusted to increase applicant delay by 131 days and to reduce Office delay by 2 days. However, upon issuance of the patent, the Office incorrectly reduced applicant delay by 130 days, to 970 days.

The fee set forth in 37 CFR 1.18(e) was submitted on initial petition filed on November 28, 2007. No additional fee is required. The fee submitted with the instant request will be credited to counsel's deposit account.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 CFR 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by eleven hundred (1100) days subject to any disclaimers.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Draft Certificate of Correction
Copy of corrected PALM screen

Day : Thursday

PALM INTRANET

Date: 2/5/2009
Time: 14:50:09

PTA Calculations for Application: 10/177576			
Application Filing Date:	06/21/2002	PTO Delay (PTO):	1155
Issue Date of Patent:	08/19/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	56
Post-Issue Petitions:	0	Total PTA (days):	1100
PTO Delay Adjustment:	1		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
78	02/05/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	130		
73.5	07/30/2008	PTA 36 MONTHS	475		
73	08/19/2008	PATENT ISSUE DATE USED IN PTA CALCULATION	144		65
72	07/23/2008	DISPATCH TO FDC			
71	07/18/2008	MAIL-PETITION DECISION - GRANTED IN PART			
70	07/18/2008	PETITION DECISION - GRANTED IN PART			
69	07/03/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		1	
69	07/03/2008	ADJUSTMENT OF PTA CALCULATION BY PTO			
68	07/03/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	2		
68	07/03/2008	ADJUSTMENT OF PTA CALCULATION BY PTO			
67	07/03/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		130	
67	07/03/2008	ADJUSTMENT OF PTA CALCULATION BY PTO			
66	12/06/2007	APPLICATION IS CONSIDERED READY FOR ISSUE			
65	11/28/2007	ISSUE FEE PAYMENT VERIFIED			
64	11/28/2007	PETITION ENTERED			
63	11/28/2007	ISSUE FEE PAYMENT RECEIVED			
62	10/08/2007	FINISHED INITIAL DATA CAPTURE			
61	08/31/2007	EXPORT TO INITIAL DATA CAPTURE			
60	08/28/2007	MAIL NOTICE OF ALLOWANCE	130		47
59	08/27/2007	ISSUE REVISION COMPLETED			
58	08/21/2007	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
57	08/21/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
56	08/21/2007	CASE DOCKETED TO EXAMINER IN GAU			

55	08/21/2007	DOCUMENT VERIFICATION			
54	08/20/2007	NOTICE OF ALLOWABILITY			
53	06/12/2007	APPEAL BRIEF REVIEW COMPLETE			
52	06/12/2007	DATE FORWARDED TO EXAMINER			
51	05/10/2007	APPEAL BRIEF FILED			
50	04/10/2007	NOTICE -- DEFECTIVE APPEAL BRIEF			
49	01/29/2007	APPEAL BRIEF REVIEW COMPLETE			
48	01/29/2007	DATE FORWARDED TO EXAMINER			
47.1	12/20/2006	DEFECTIVE / INCOMPLETE APPEAL BRIEF FILED			
47	12/20/2006	APPEAL BRIEF FILED			
46	12/20/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
45	09/21/2006	NOTICE OF APPEAL FILED			
44	09/06/2006	MAIL ADVISORY ACTION (PTOL - 303)			
43	09/01/2006	ADVISORY ACTION (PTOL-303)			
42	08/24/2006	DATE FORWARDED TO EXAMINER			
41	08/21/2006	AMENDMENT AFTER FINAL REJECTION			
40	06/21/2006	MAIL FINAL REJECTION (PTOL - 326)			
39	06/15/2006	FINAL REJECTION			
38	06/05/2006	DATE FORWARDED TO EXAMINER			
37	05/30/2006	AMENDMENT AFTER FINAL REJECTION			
36	03/27/2006	MAIL FINAL REJECTION (PTOL - 326)			
35	03/20/2006	FINAL REJECTION			
34	12/28/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
33	08/24/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
32	01/10/2006	DATE FORWARDED TO EXAMINER			
31	12/28/2005	RESPONSE AFTER NON-FINAL ACTION		2	28
30.7	12/28/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
30	12/28/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
29	10/06/2005	CASE DOCKETED TO EXAMINER IN GAU			
28	09/26/2005	MAIL NON-FINAL REJECTION			
27	09/19/2005	NON-FINAL REJECTION			
26.7	08/24/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		54	24

26	08/24/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
25	07/07/2005	DATE FORWARDED TO EXAMINER			
24	07/01/2005	RESPONSE AFTER NON-FINAL ACTION			
23	04/06/2005	MAIL NON-FINAL REJECTION			
22	04/04/2005	NON-FINAL REJECTION			
21.7	12/10/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	19
21	12/10/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	02/09/2005	DATE FORWARDED TO EXAMINER			
19	12/10/2004	RESPONSE AFTER NON-FINAL ACTION			
18	10/06/2004	CASE DOCKETED TO EXAMINER IN GAU			
17	09/30/2004	MAIL NON-FINAL REJECTION	406		-1
16	09/30/2004	NON-FINAL REJECTION			
15	09/28/2004	CASE DOCKETED TO EXAMINER IN GAU			
14	07/06/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
13	04/29/2004	REFERENCE CAPTURE ON IDS			
12	01/26/2004	REFERENCE CAPTURE ON IDS			
11.7	06/21/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	06/21/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	06/22/2004	CASE DOCKETED TO EXAMINER IN GAU			
9.7	04/29/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	04/29/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8.7	01/26/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	01/26/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	02/07/2003	CASE DOCKETED TO EXAMINER IN GAU			
6	12/09/2002	TRANSFER INQUIRY TO GAU			
5	12/09/2002	TRANSFER INQUIRY TO GAU			
4	07/24/2002	APPLICATION DISPATCHED FROM OIPE			
3	07/23/2002	APPLICATION IS NOW COMPLETE			
2	07/06/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	06/21/2002	INITIAL EXAM TEAM NN			

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,415,452 B1

DATED : August 19, 2008

INVENTOR(S) : Robert M. Ayers

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (970) days

Delete the phrase "by 970 days" and insert – by 1100 days--

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SEP 03 2009
OFFICE OF PETITIONS

In re Patent No. 7,415,452	:	
Robert M. Ayers	:	ON PETITIONS
Application No. 10/177,576	:	under 37 CFR 1.183
Issue Date: August 19, 2008	:	and
Filed: June 21, 2002	:	ON REQUEST FOR RECONSIDERATION
Attorney Docket No.	:	OF PATENT TERM ADJUSTMENT
07844-539001	:	

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 an Application for Patent Term Adjustment under 37 C.F.R. 1.705(d) filed more than two months from the date the above-referenced patent issued; and on the 2) Application for Patent Term Adjustment, both filed on February 13, 2009.

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

The request for reconsideration of patent term adjustment under 37 CFR 1.705(d) is **dismissed as untimely filed**.

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

BACKGROUND

On August 19, 2008, the above-identified application matured into U.S. Patent No. 7,415,452 with a revised patent term adjustment of 970 days. On October 17, 2008, patentee filed a a request for reconsideration of the patent term adjustment, within two months of the date the patent issued. Patentee requested correction of the determination of patent term adjustment from 970 days to 1100 days. However, patentee did not dispute the period of adjustment for the Office taking in excess of three years to issue the patent pursuant to 37 CFR 1.702(b). On February 9, 2009, a decision granting the request for reconsideration of the patent term adjustment was mailed.

Patentee now petitions under 37 C.F.R. § 1.183 to (i) suspend or waive the requirement of 37 C.F.R. § 1.705(d) that an Application for Patent Term Adjustment be filed within two months of the date the patent issued; and (ii) consider the enclosed Request for Reconsideration of Patent Term Adjustment. Patentee references the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008) as the basis for the petition.

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

The above-referenced patent issued on August 19, 2008. The instant request for reconsideration of the patent term adjustment indicated in the patent was not filed until February 13, 2009. Petitioner requests that the Office suspend the rules and consider on the merits the Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) even though it was untimely filed more than two months from the date the patent issued.

The relevant regulation, 37 CFR 1.705(d), provides that:

> If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, *any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued* and must comply with the requirements of paragraphs (b)(1) and

> (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues. (*emphasis* added).

By the express provisions of 37 CFR 1.705(d), a request for reconsideration of patent term adjustment must be filed within two months of the date the patent issued. It is undisputed that the instant request for reconsideration was not filed by October 19, 2008, the date two months from the date this patent issued, August 19, 2008. Rather, on February 13, 2009, over four (4) months after the issuance of a decision in Wyeth v. Dudas on September 30, 2008, petitioner filed the instant request for waiver of the two-month requirement.

37 CFR 1.183 provides that:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

35 U.S.C. 154, requires the Office to provide the applicant one opportunity to request reconsideration of any patent term adjustment determination made by the Director, authorizes the Director to establish the procedures for requesting such reconsideration. Those procedures[1] include pursuant to 37 CFR

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[1] 35 U.S.C. § 154(b)(3) provides that the USPTO shall: (1) prescribe regulations establishing procedures for the application for and determination of patent term adjustments under 35 U.S.C. § 154(b); (2) make a determination of any patent term adjustment under 35 U.S.C. § 154(b) and transmit a notice of that determination with the notice of allowance under 35 U.S.C. § 151; and (3) provide the applicant one opportunity to request reconsideration of any patent term adjustment determination. Pursuant to the mandate and authority in 35 U.S.C. § 154(b)(3), the USPTO promulgated 37 C.F.R. § 1.705, which provides that: (1) the notice of allowance will include notification of any patent term adjustment under 35 U.S.C. § 154(b)(37 C.F.R. § 1.705(a)); (2) any request for reconsideration of the patent term adjustment indicated in the notice of allowance (except as provided in 37 C.F.R. § 1.705(d)) must be by way of an application for patent term adjustment filed no later than the payment of the issue fee and

1.705(d) setting a two-month period for filing a request for reconsideration of the revised patent term adjustment indicated in the patent.

Having considered petitioner's arguments, it is concluded that waiver of the two-month requirement is not warranted. The primary basis for requesting waiver set forth by petitioner is "the extraordinary situation presented by the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008)." Specifically, petitioner states that in Wyeth, the U.S. District Court for the District of Columbia held that contrary to USPTO practice, a patentee is entitled to Patent Term Adjustment credit for examination delay under 37 CFR 1.702(b) in addition to any examination delay under 37 CFR 1.702(a), to the extent that the two periods of delay "do not occur on the same calendar day or days."

Petitioner has not explained why it could not have filed the subject Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued. Apparently, petitioner's argument is that the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered over one (1) month after the issuance of their patent.

The fact that any relief ultimately granted in Wyeth would benefit patentee had they timely filed a request for reconsideration does not make the situation extraordinary. Wyeth followed the procedure set forth in 37 CFR 1.705 for requesting reconsideration of the patent term adjustment determination. Then, pursuant to 35 U.S.C. 154(b)(4)(A), Wyeth timely filed a complaint in District Court seeking judicial review of the Office's decision. A Memorandum Opinion and Order, the Wyeth decision of September 30, 2008, directed to the parties involved was issued.

While petitioner chose to challenge their revised patent term adjustment on other grounds within the two-month period, the

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accompanied by (inter alia) the fee set forth in 37 C.F.R. § 1.18(e)(37 C.F.R. § 1.705(b)); and (3) if the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued.

instant request for reconsideration was not filed within the two-month period. Petitioner's argument that they could not have filed the instant Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued because the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered more than one month after the issuance of their patent, is not persuasive.

Petitioner could have filed a Request for Reconsideration of Patent Term Adjustment as Wyeth did. It is acknowledged that petitioner may have chosen not to file a request for reconsideration based on a conclusion that the Office's interpretation of 35 U.S.C. § 154(b)(2)(A) was correct. Nonetheless, the fact that the District Court has now issued an Opinion contrary to the Office's interpretation does not make the situation extraordinary. This is not unlike any other situation where a patentee (or applicant) challenges a final agency decision and the decision upon judicial review could have had applicability to another patentee (or applicant) had they taken such action. In fact, many patentees may be in the same situation as petitioner with respect to the Wyeth decision. In addition, given that the law only allows 180 days for both the filing of a petition and for the Office's consideration of that petition, petitioner's unexplained nearly four (4)-month delay in filing the petition weighs against them.

Petitioner simply fails to articulate how their failure to file a request for reconsideration of patent term adjustment within two months of the issue date of the patent was due to an extraordinary situation. Petitioner cannot rely on Wyeth's actions or the Wyeth decision to establish that their situation was extraordinary.

The contention that a decision is in error is a basis for a timely request for review of the decision but does not justify a delay in seeking review of such decision.

The Office provided notice that petitions under 37 CFR 1.182 and 1.183 or requests for certificate of corrections under 35 USC 354 and 37 CFR 1.323 or 35 U.S.C. 255 and 37 CFR 1.324 are not substitute *fora* to obtain reconsideration of a patent term adjustment determination indicated in a notice of allowance if applicant fails to submit a request for reconsideration within the time period specified in §1.705(b) or to obtain

reconsideration of a patent term adjustment determination indicated in a patent if a patentee fails to submit a request for reconsideration within the time period specified in §1.705(d). See 69 Fed. Reg. 21704, 21707 (April, 22, 2004).

In view thereof, the petition under 37 CFR 1.183 for waiver of the two-month requirement of 37 CFR 1.705(d) is **dismissed**.

Accordingly, consideration now turns to the Request for Reconsideration of Patent Term Adjustment under 37 CFR 1.705(d).

ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)," filed February 13, 2009. Therein, patentee requests correction of the patent term adjustment (PTA) indicated in the patent to one thousand two hundred ninety-four (1294) days.

On August 19, 2008, the above-identified application matured into U.S. Patent No. 7,415,452 with a revised patent term adjustment of 970 days. On October 17, 2008, a request for reconsideration of the patent term adjustment was filed. On February 9, 2009, a decision on the request for reconsideration of the patent term adjustment was mailed. The instant request for reconsideration was filed more than five months after the issuance of the patent, on February 13, 2009.

No error in the printing of the patent has been shown. The patent term adjustment indicated on the patent reflects the Office's determination of patent term adjustment shown in the PAIR system for this application. 37 CFR 1.705(d) provides the sole avenue before the Office for requesting reconsideration of the Office's determination of patent term adjustment indicated in the patent. Moreover, § 1.705(d) states that "any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section." Since the request was not filed within two months of the issue date of the patent, the request is properly **dismissed as untimely filed**.

CONCLUSION

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

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

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

JOEL D. SKINNER, JR.
SKINNER AND ASSOCIATES
212 COMMERCIAL ST.
HUDSON, WI 54016

In re Application of :
Kroll et al. :
Application No. 10/177,586 : ON PETITION
Filed: June 19, 2002 :
Attorney Docket No. :
INT125USA :

This is a decision on the Petition Under 37 C.F.R. 1.182, filed July 12, 2004, requesting the above-identified application be accorded the filing date of June 18, 2002, instead of the presently accorded filing date of June 19, 2002.

The petition is **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR § 1.182." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Applicant alleges the application was deposited in Express Mail service with the U.S. Postal Service, on June 18, 2002. In support of this assertion, Applicant provides a copy of the Declaration of Jessica Schultz Raska (the "Raska Declaration"), and a copy of Express Mail Label EL060892628US. The Express Mail Label indicates June 19, 2002 as the "Date In". Applicant argues that another application, No. 10/177,631 was mailed by Jessica Schultz Raska at the same time as the above-identified application and was accorded the correct, June 18, 2002 filing date.

STATUTE AND REGULATION

35 U.S.C. § 21(a) states that:

> The Director may by rule prescribe that any paper or fee required to be filed in the Patent and Trademark Office will be considered filed in the Office on the date on which it was deposited with the United States Postal Service or would have been deposited with the United States Postal Service but for postal service interruptions or emergencies designated by the Director.

In May, 2004, section 1.10(a) of title 37, Code of Federal Regulations, stated that:

> Any correspondence received by the U.S. Patent and Trademark Office (USPTO) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed with the USPTO on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the USPTO receipt date as the filing date.

The PTO considers the date the paper or fee is shown to have been deposited as Express Mail as set forth in § 1.10(a) to be the "Date-In" on the Express Mail label.

Placing the "Date-In" on the Express Mail label by the postal clerk establishes that the package was actually received by the Postal Service. That is the date that verifies that the package was actually mailed.

Paragraph (c) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show a discrepancy between the filing date accorded by the Office to the

correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other that 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.

OPINION

The instant Petition lacks the showing required in item (3).

The evidence presented in the instant petition and supplement has been carefully considered; however, it is not persuasive that the above-identified application is entitled to a filing date of June 18, 20002.

As to item (3), the certificate contains one date (June 19, 2002) and the "Express Mail" label contains another date (June 18, 2002), there is a "question regarding the date of mailing" within the meaning of 37 CFR 1.10. In instances in which there is a discrepancy between the date on the certificate and the date on the "Express Mail" label, the "Date In" on the Express Mail receipt shows the actual date of mailing under 37 CFR 1.10. As such, it is petitioners' burden to establish that the June 19, 2002, "Date-In" on the Express Mail receipt is not the correct date of deposit with the U.S. Postal Service of the envelope bearing Express Mail label number EL060892628US and containing the above-identified application.

Petitioners' argument, that any discrepancy between the date on the certificate of Express Mailing under 37 CFR 1.10 and the "Date-In" on the Express Mail label is the result of an error on the part of an employee of the U.S. Postal Service, is unpersuasive.

Public Law 97-247, 96 Stat. 317 (1982), amended 35 U.S.C. . 21 permitting, but not requiring, the Office to prescribe that any paper or fee required to be filed in the Office be considered filed in the Office on the date on which it was deposited with the U.S. Postal Service. The Office promulgated 37 CFR 1.10 pursuant to the authority provided in 35 U.S.C. . 21.

37 CFR 1.8 provides a procedure by which the timely filing of papers and fees deposited with the U.S. Postal Service may be established without independent corroboration by an employee of the U.S. Postal Service (*i.e.*, established solely by the statement(s) from applicant or his or her counsel). The suggestion that 37 CFR 1.8 be applicable to application papers deposited the U.S. Postal Service for purposes of obtaining a filing date was considered and expressly rejected. The criticality of an application filing date was considered adequate to justify independent verification by an employee of the U.S. Postal Service of the date of deposit of the application papers with the U.S. Postal Service. See rulemaking entitled "Revision of Patent Procedure," published in the *Federal Register* at 48 *Fed. Reg.* 2696, 2702 (January 20, 1983), and in the Patent and Trademark Office *Official Gazette* at 1027 *Off. Gaz. Pat. Office* 9, 25 (February 1, 1983). Put simply, the insertion by a disinterested employee of the U.S. Postal Service of the date of deposit in the U.S. Postal Service by Express Mail on the Express Mail label of the envelop containing application papers is the *raison d'être* of 37 CFR 1.10.[1]

Applicant does not provide any evidence from the USPS that would corroborate that: (1) any error on the part of any Postal employee caused or contributed to an incorrect date being written as the "Date-In" on Express Mail label number EL060892628US, or (2) the June 19, 2002 date written as the "Date-In" on Express Mail label number EL060892628US is

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[1] In promulgating 37 CFR 1.10, the Office also considered other types of mail service (*e.g.*, registered mail and certified mail), but chose the "Express Mail" service since this service provides, *inter alia*, a legible mailing date on the "Express Mail" label for the records of both the applicant and the Office. See "Revision of Patent Procedure," 48 *Fed. Reg.* at 2697, 1027 *Off. Gaz. Pat. Office* 12-13.

incorrect. As such, petitioners' assertion that the above-identified application was deposited by Express Mail on June 18, 2002, is not corroborated by any evidence outside the office of submitting counsel. See Honigsbaum v. Lehman, 903 F.Supp. 8, 10 (D.D.C. 1995).

Where there is a question regarding mailing, the person mailing the paper or fee must establish the actual date of mailing by: (1) a copy of the Express Mail receipt showing the actual date of mailing, (2) a statement from the person who mailed the paper or fee averring to the fact that the mailing occurred on the date certified. See "Revision of Patent Procedure," 48 *Fed. Reg.* at 2697, 1027 *Off. Gaz. Pat. Office* at 12. As there is a discrepancy between the date of mailing (the "Date-In") on the Express Mail label, and the date Applicant asserts that the above-identified application was mailed, the Office is properly requiring adequate corroboration that the above-identified application was deposited in Express Mail on the date asserted.[2]

The Raska declaration is the only direct evidence concerning the asserted mailing of the above-identified application on June 18, 2002. The date this declaration was prepared July 6, 2004, more than two years after the date in question. It is maintained that a contemporaneously entered date by a disinterested U.S. Postal Service employee at the time of mailing (*i.e.*, on June 19, 2002) is more reliable than Applicant's asserting to actually remember in June of 2002 the precise date the above-identified the date was deposited with the U.S. Postal Service by Express Mail (*i.e.*, that the above-identified application was so deposited on June 18, 2002, rather than June 19, 2002). In summary, the evidence submitted by petitioners is not as probative as the "Date-In" on the Express Mail label of the mailing date of the envelope bearing Express Mail label number EH690266765US, since Express Mail labels are contemporaneously dated with the corresponding time, and initialed by a disinterested U.S. Postal Service employee at the time of mailing, and are business records routinely maintained by the U.S. Postal Service for later verification of mailing dates. See Nitto Chem. Indus. Co. v. Comer, No. 93-1378, 1994 U.S. Dist. LEXIS 19211, at *8 (D.D.C., March 7, 1994).

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[2] In response to objections to the use of affidavits and/or declarations to establish a filing date, the Office indicated that such affidavits or declarations are considered to explain activities that are supported by exhibits (*i.e.*, corroborate evidence). See "Revision of Patent Procedure," 48 *Fed. Reg.* at 2702-03, 1027 *Off. Gaz. Pat. Office* at 27-28. Thus, the Office appropriately requires the submission of corroborative documentary evidence to establish an application filing date.

Finally, MPEP 513 cautions applicants that in instances in which there is a discrepancy between the "Date-In" on the Express Mail label and the date on the certificate of Express Mailing, the "Date-In" on the Express Mail label is controlling. See also "Revision of Patent Procedure," 48 *Fed. Reg.* at 2702, 1027 *Off. Gaz. Pat. Office* at 25. As such, any applicant choosing to deposit an application in an Express mail receptacle, rather than deliver the application to an open U.S. Postal Service office and observe the "Date-In" entered on the Express Mail label, is on notice that he or she bears the risk that there may be a discrepancy between the "Date-In" on the Express Mail label and the date on the certificate of Express Mailing.[3] Applicants simply chose to deposit the above-identified application in an Express mail receptacle, rather than deliver the application to an open U.S. Postal Service office.

Accordingly, the above-identified application is not entitled to a filing date of June 8, 2000 pursuant to 37 CFR 1.10(c), due to the discrepancy between the "Date-In" on the Express Mail label and the date on the certificate of Express Mailing, and in view of the other submitted evidence.

CONCLUSION

For the above stated reasons, the request that the above-identified application be accorded a filing date of May 12, 1994 is dismissed and the filing date remains June 30,

Applicant is advised that 37 CFR § 1.10(d) provides a method whereby an applicant 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 Application No.

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[3] Specifically, the Office must rely on the actions or inactions of petitioners' duly authorized and voluntarily chosen representatives, and petitioners are bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962). As such representative chose to deposit the above-identified application in an Express mail receptacle, rather than deliver the application to an open U.S. Postal Service office and observe the "Date-In" entered on the Express Mail label, petitioners' must bear the consequences of such action (*i.e.*, that there may be a discrepancy between the "Date-In" on the Express Mail label and the date on the certificate of Express Mailing).

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 within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

Acceptable proof would consist of an Express Mail log book, entered after deposit by the person who deposited the correspondence as "Express Mail" and within one business day of such deposit, setting forth, for example, the application number, attorney docket number or other file identification number, the "Express Mail" number, and the date, place and/or time of deposit, the last scheduled pick-up, the depositor's initials, and the date and time of entry into the log. See MPEP § 513.

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

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

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

By hand: Customer Window Located at:
U.S. Patent & Trademark Office
220 20th Street S.
Customer Window, Mail Stop PETITIONS
Crystal Plaza Two, Lobby Room 1B03
Arlington, VA 22202

Telephone inquiries concerning this matter should be directed to the undersigned at (571-272-3232) 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
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AUG 03 2005

OFFICE OF PETITIONS

LSI Logic Corporation
1621 Barber Lane
MS: D-106
Milpitas, CA 95035

In re Application of:
ANDREEV, Alexander E.
U.S. Application No.: 10/177,591
Filing Date: June 19, 2002
Attorney's Docket No.: 01-1062 72712
For: TABLE MODULE COMPILER EQUIVALENT TO ROM

DECISION ON PETITION
(37 CFR 1.137(b))

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-entitled application, filed April 08, 2005.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the non-final Office action mailed September 29, 2004, which set a shortened statutory period for reply of three (3) months. A response was not filed and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned at midnight on December 29, 2004.

The present petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a response to the Office action mailed September 29, 2004; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Office action of September 29, 2004 is accepted as having been unintentionally delayed.

The application file is being referred to Technology Center AU 2163

Telephone inquiries concerning this decision should be directed to Richard M. Ross at (571) 272-3296 or, in his absence, the undersigned at (571) 272-3217.

Frances Hicks for
Brian Hearn
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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DIW May-06

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

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OFFICE OF PETITIONS

In re Application of	:	
Neiman et al.	:	DECISION DISMISSING PETITION
Application No. 10/177,597	:	UNDER 37 CFR 1.78(a)(6)
Filed: 20 June, 2002	:	
Atty Docket No. 36287-02510	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed on 25 August, 2005, for acceptance of an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of the filing date of provisional Application No. 60/355,274, filed on 8 February, 2002.

The petition is **DISMISSED**.

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

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

This pending nonprovisional application was filed on 20 June, 2002, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/355,274, which was filed on 8 February, 2002, and for which priority is claimed. A

reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

The petition must be dismissed, however, because the issue fee was paid in the present nonprovisional application on 27 June, 2005, prior to the submission of the present petition and amendment. 37 CFR 1.312 states that any amendments must be submitted prior to or with payment of the issue fee.

Petitioners may wish to consider withdrawing the present application from issue under 37 CFR 1.313(c)(2) or expressly abandoning the present application in favor of a continuing application.[1]

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

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

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

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

Any inquiries directly pertaining to this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Frances Hicks
Lead Paralegal
Office of Petitions

[1] See 37 CFR 1.313(c)(3).

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

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JUL 20 2006

OFFICE OF PETITIONS

In re Application of	:	
Neiman et al.	:	DECISION DISMISSING PETITION
Application No. 10/177,597	:	UNDER 37 CFR 1.78(a)(6)
Filed: 20 June, 2002	:	
Atty Docket No. 36287-02510	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF DECISION DISMISSING PETITION UNDER 37 CFR 1.78(a)(6)", filed on 20 June, 2006, for acceptance of an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of the filing date of provisional Application No. 60/355,274, filed on 8 February, 2002.

The petition is again **DISMISSED**.

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

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

This pending nonprovisional application was filed on 20 June, 2002, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/355,274, which was filed on 8 February, 2002, and for which priority is claimed. A reference to the prior-filed provisional application has been

included in an amendment to the first sentence of the specification following the title.

The petition must be dismissed, however, because the issue fee was paid in the present nonprovisional application on 27 June, 2005, prior to the submission of the present petition and amendment. 37 CFR 1.312 states that any amendments must be submitted prior to or with payment of the issue fee.

Petitioners assert, in the present renewed petition, "that 37 CFR 1.312 does not apply here, and that a reference included in a petition under section 78(a)(6) need not be made before or with the payment of an issue fee."

Petitioners further assert:

> Section 78 expressly authorizes (and indeed requires) the filing of an amendment in connection with a petition for acceptance of an unintentionally delayed claim under § 119(e). 37 CFR 1.78(a)(6). As to a "deadline" for submitting a reference and petition, section 78 states only that the reference must be included "during the pendency of the application:"
>
> > If the reference…is presented in a nonprovisional application after the time period provided by paragraph (a)(5)(ii) of this section, the claim under 35 U.S.C. 119(e)…may be accepted ***during the pendency of the later-filed application*** if the reference identifying the prior-filed application by provisional application number was unintentionally delayed.
>
> *Id.* (emphasis added by Applicants). It does not also state that the reference must be submitted before payment of the issue fee.

Petitioners' argument has been carefully considered, but is not persuasive.

Petitioners should note MPEP 714.16, which states:

> Amendment After Notice of Allowance, 37 CFR 1.312
>
> > 37 CFR 1.312. Amendments after allowance.
> > No amendment may be made as a matter of right in an application after the mailing of

> the notice of allowance. Any amendment filed pursuant to this section must be filed before or with the payment of the issue fee, and may be entered on the recommendation of the primary examiner, approved by the Director, without withdrawing the application from issue. The amendment of an application by applicant after allowance falls within the guidelines of 37 CFR 1.312. Further, the amendment of an application broadly encompasses any change in the file record of the application. Accordingly, the following are examples of "amendments" by applicant after allowance which must comply with 37 CFR 1.312:
>
> (A) an amendment to the specification,
> (B) a change in the drawings,
> (C) an amendment to the claims,
> (D) a change in the inventorship,
> (E) the submission of prior art,
> (F) a petition to correct the spelling of an inventor's name,
> (G) a petition to change the order of the names of the inventors, etc.
>
> Finally, it is pointed out that an amendment under 37 CFR 1.312 must be filed on or before the date the issue fee is paid, except where the amendment is required by the Office of Patent Publication, see MPEP § 714.16(d), subsection III. An amendment under 37 CFR 1.312 must comply with the provisions of 37 CFR 1.121. >If the amendment is non-compliant under 37 CFR 1.121 and the entry of the amendment would have been otherwise recommended, the examiner may enter the amendment and correct the non-compliance (e.g., an incorrect status identifier) using an examiner's amendment. See MPEP § 714.<

In view thereof, petitioners' argument that an amendment filed in connection with a petition under 37 CFR 1.78(a)(6) after payment of the issue fee does not fall within the purview of 37 CFR 1.312, but rather some alternative rule, is without merit. At the outset, 37 CFR 1.312, by its title, speaks to "Amendments

after allowance" and it is undisputed that the amendment filed with the original petition was filed after allowance. As such, an amendment filed after allowance clearly falls within Rule 1.312 and is bound by the restrictions thereof. Additionally, the amendment submitted with the original petition was an amendment to the first line of the specification, and, as such, clearly constitutes an amendment to the specification as illustrated in the foregoing MPEP section.

Finally, petitioners' assertion that the amendment must be accepted, the restrictions of 37 CFR 1.312 notwithstanding, because 37 CFR 1.78(a)(6) permits the filing of a priority claim during the pendency of the application, represents a misinterpretation of the applicable rules and law. 37 CFR 1.78(a)(6) and 35 U.S.C. § 119(e), in stating that a reference may be accepted during the pendency of the later-filed application, in no way portend to carve out an exception to the requirements of 37 CFR 1.312. In this regard, it is noted that MPEP § 714.16(d), as referenced above, specifies the one instance where an amendment will be accepted after payment of the issue fee. As the present amendment does not fall within prescribed circumstances, it is clear that petitioners' proposed amendment is not permitted.

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
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401 Dulany Street
Alexandria, VA 22314

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

Any inquiries directly pertaining to this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Frances Hicks
Lead Paralegal
Office of Petitions

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Paper No. 5

Adams Patent & Trademark Agency
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OFFICE OF PETITIONS

In re Application of	:	
Berini	:	
Application No. 10/177,621	:	DECISION GRANTING
Filed: June 21, 2002	:	PETITION
Attorney Docket No. AP877US	:	

This is a decision on the petition filed October 9, 2002, to establish that pages 36 and 39 of the specification were part of the originally filed application.

On June 21, 2002, the application was filed.

On August 12, 2002, the Office of Initial Patent Examination mailed a Notice stating that the application had been accorded a filing date of June 21, 2002, and advising applicants that pages 36 and 39 of the specification appeared to have been omitted.

In response, the present petition was filed alleging that the missing pages were deposited on June 21, 2002. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "Claims 1-67" on June 21, 2002.[1] Petitioner has also submitted a copy of the missing documentation- pages 36 and 39 of the specification consisting of claims 25 to 32, part of claim 43, and claims 44 to 48.

Upon review of the record, pages 36 and 39, deposited on June 21, 2002, have not been located. However, the evidence is convincing that the application papers deposited on October 9, 2002, included pages 36 and 39, and that the pages were subsequently misplaced in the PTO.

In view of the above, the petition is **granted**. The copy of pages 36 and 39 submitted with the petition will be used for examination purposes.

No petition fee is required and none has been charged.

The Notice mailed August 12, 2002, is hereby vacated to the extent it states that pages 36 and 39 of the specification were omitted.

---

[1] Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of June 21, 2002, using the application papers filed on June 21, 2002, and the copy of pages 36 and 39 of the specification filed on October 9, 2002.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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JAN 28 2003

OFFICE OF PETITIONS

SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER, CO 80202

In re Application of
Liefke, et al.
Reissue Application No. 10/177,638
Filed: June 20, 2002
Atty. Dkt. No.: 7097RA-1
For: ALUMINUM UNIVERSAL ANGLE BRACKETS

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed December 30, 2002.

The petition is **GRANTED**.

Petitioner has shown that the legal representative of the deceased inventor has refused to join in the filing of the above-identified application after having been presented with the application papers.

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

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

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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R. WEST & ASSOCIATES INC.
SURREY, BRITISH COLUMBIA
CANADA
V3W 5A3

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JAN 2 8 2003

OFFICE OF PETITIONS

In re Application of
Liefke, et al.
Reissue Application No. 10/177,638
Filed: June 20, 2002
Atty. Dkt. No.: 7097RA-1
For: ALUMINUM UNIVERSAL ANGLE BRACKETS

LETTER

Dear Sir:

You are named as the legal representative of deceased inventor Paul George Sheppard in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 op
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 the legal representative of the deceased joint inventor.

As a named legal representative of the deceased 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 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
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ALEXANDRIA, VA 22313-1450
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Paper No.

Laura A. Majerus
FENWICK & WEST LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

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APR 04 2005

Technology Center 2100

In re Application of:
Ted E. Dunning
Application No. 10/177,643
Filed: June 20, 2002
For: CONTROLLABLE TRACK-SKIPPING

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed December 21, 2004.

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

The request filed December 21, 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
for Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
(571) 272-3613

cc: James J. DeCarlo
STROOCK & STROOCK & LAVAN, LLP
180 Maiden Lane
New York, NY 10038-4982

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United States Patent and Trademark Office
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500 S. GRAND AVENUE
SUITE 1900
LOS ANGELES CA 90071-2611

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APR 2 9 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Morikawa, et al. :
Application No. 10/177,646 :
Filed: June 20, 2002 :
Attorney Docket No. 89172.0001 :
For: METHOD AND APPARATUS FOR CALCULATING OPTIMIZED SOLUTION OF AMINO ACID SEQUENCES OF MULTIPLE -MUTATED PROTEINS AND STORAGE MEDIUM STORING PROGRAM FOR EXECUTING THE METHOD

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 24, 2003 (certificate of mailing date November 20, 2003), to accept an unintentionally delayed claim under 35 U.S.C. § § 120 and 365(c) for the benefit of prior-filed International Application No. PCT/JP00/09127, filed December 21, 2000.

The petition under 37 CFR 1.78(a)(3) is **DISMISSED**.

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

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

---

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

The instant pending application was filed on June 20, 2002 and was at the time of filing the instant petition pending. A reference 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 on November 26, 2002 (certificate of mailing date November 21, 2002).

A reference to prior-filed international application was not included in the manner specified in 37 CFR 1.78(a)(2)(i) (i.e., in an ADS or in an amendment to the first sentence following the title of the specification) or filed within the period specified in 37 CFR 1.78(a)(2)(ii).

A reference to add the above-noted, prior-filed international application on page one following the first sentence of the specification has been included in an amendment filed on November 26, 2002 (certificate of mailing date November 21, 2002). However, the amendment is not acceptable as drafted since it improperly incorporates by reference two prior applications. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment deleting the incorporation by reference statement is required. Petitioner is requested to submit an amendment stating, "The present application is a continuation of PCT Application No. PCT/JP00/009127, filed December 21, 2000, which application has not published in English under PCT Article 21(2)."

Foreign applications, such as Japanese Application Serial No. 11-368498, must be referenced in an ADS or in an oath/declaration.37 CFR 1.63(c)(2). A reference to Japanese Application Serial No. 11-368498 was made in a declaration submitted on September 16, 2002. This reference was timely submitted within 4 months of the June 20, 2002 filing date of the present application. Therefore, inclusion of the foreign benefit claim is not required in the corrected amendment and would be improper if included.

Once a reconsideration petition is granted, the Office will mail a corrected filing receipt that references both the PCT application and the Japanese 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: Crystal Plaza 1 Lobby
2011 South Clark Place
Room 1B03
Arlington, VA 22202

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

Any questions concerning this matter may be directed to the Senior Petitions Attorney E. Shirene Willis at (703) 308-6712 .

Charles Pearson
Director, Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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500 S. GRAND AVENUE
SUITE 1900
LOS ANGELES CA 90071-2611

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Morikawa, et al.
Application No. 10/177,646
Filed: June 20, 2002
Attorney Docket No. 89172.0001
For: METHOD AND APPARATUS FOR CALCULATING OPTIMIZED SOLUTION OF AMINO ACID SEQUENCES OF MULTIPLE -MUTATED PROTEINS AND STORAGE MEDIUM STORING PROGRAM FOR EXECUTING THE METHOD

This is a decision on the reconsideration petition under 37 CFR 1.78(a)(3), filed July 28, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § § 120 and 365(c) for the benefit of prior-filed International Application No. PCT/JP00/09127, filed December 21, 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 November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

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

The instant pending application was filed on June 20, 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).

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 Senior Petitions Attorney E. Shirene Willis at (571) 272-3230.

This application is being forwarded to the examiner of Technology Center Art Unit 1631 for appropriate action on the amendment filed July 28, 2004, including consideration of applicants' entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to prior-filed PCT Application No. PCT/JP00/09127, filed December 21, 2000.

Charles Pearson
Director, Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

MUSERLIAN AND LUCAS AND MERCANTI, LLP
475 PARK AVENUE SOUTH
NEW YORK NY 10016

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AUG 2 0 2004
OFFICE OF PETITIONS

In re Application of
Pav, et al.
Application No. 10/177,698
Filed: June 21, 2002
Attorney Docket No. GMA-21A

ON PETITION

This is a decision on the petition under 37 CFR § 1.78(a)(6), filed March 10, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR §1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000.

Along with the instant petition under 37 CFR §1.76(a)(6), petitioner has submitted an amendment to the first sentence of the specification following the title to include a reference to the prior-filed application.

The instant pending nonprovisional application was filed on June 21, 2002, and was pending at the time of filing of the instant petition. While a reference to the prior-filed application was not included in an ADS or in the first sentence of the specification following the title, reference nevertheless was made in the declaration filed with the above-identified application.

The current procedure where a claim for priority under 37 CFR §1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR §1.78(a)(5)(ii).

However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed application set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim priority under § 37 CFR 1.78(a)(6).[1] In the instant case, the Office noted the claim for priority of the prior-filed application in the declaration filed with the application, as shown by its inclusion on the filing receipt.

In view of the above, the $1,330.00 petition fee submitted is unnecessary and will be refunded to petitioners' deposit account in due course.

Any questions concerning this decision on petition may be directed to Senior Petitions Attorney E. Shirene Willis at (703) 308-6712. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The examiner of Technology Center AU 3653 will take appropriate action on the amendment filed March 10, 2004, including consideration of the claim under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5) of the claim for benefit of the prior-filed application.

Charles Pearson
Director, Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] *Note* MPEP 201.11 (V), page 200-75 (Rev. 1. Feb. 2004 and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

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DCM

JUL 2 1 2004

In re Application of Frederick Tepper, et al. Serial Number: 10/177,709 Filed: June 21, 2002 For: NANOSIZE ELECTROPOSITIVE FIBROUS ADSORBENT	:	PETITION UNDER M.P.E.P.708.02 IV

This is in response to the petition filed January 27, 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) (**no fee required**).

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

Accordingly the petition is **GRANTED.**

Marian C. Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

Carl M. Napolitano
Allen, Dyer, Doppelt, Milbrath & Gilchrist, P. A.
P. O. Box 3791
Orlando FL 32802

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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June 2, 2004

Richard B. Lazarus
Barnes & Thornburg
750 17th St., NW.
Suite 900
Washington, DC 20006

In re application of:
Ravishankar Palanivelu, et al DECISION ON PETITION
Serial No.: 10/177,717
Filed: June 21, 2002
For: REGULATION OF PLANT FERTILITY BY MODULATION OF GAA LEVELS N FLOWERS

This is a decision on the copy of the petition hand delivered on May 12, 2004, to withdraw the holding of abandonment in the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. 1.113 in timely manner to the Notice to File Missing Parts of Application mailed July 11, 2002. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned September 12, 2002. The notice of abandonment was mailed on January 8, 2004.

On May 12, 2004, the office received a communication from the attorney of record. Enclosed was an acknowledgement that the attorney never received the Notice to File Missing Parts mailed July 11, 2002.

The evidence submitted is sufficient to establish that the petitioners never received the Notice to File Missing Parts mailed July 11, 2002.

The petition is hereby Granted.

The application will be completed with the documents received May 12, 2004 and released to Technology Center 1638.

The Power of Attorney received on May 12, 2004, has been entered into the record of the application.

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

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

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA CA 91109-7068

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APR 0 2 2007

OFFICE OF PETITIONS

In re Application of	:	
JETHMALANI et al.	:	
Application No.: 10/177,722	:	DECISION ON PETITION
Filing Date: June 18, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.: 48589/C766	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 12, 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 March 16, 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, by operation of law, the above-identified application became abandoned on June 16, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of remarks; (2) the petition fee; and (3) the required statement of unintentional delay have been received. As to item (3), petitioner's statement that "the abandonment of this application was the result of unintentional delay" has been construed as meaning that the "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional." If this interpretation is incorrect, applicant must *immediately* notify the Office of the Deputy Commissioner for Patent Examination Policy of such fact. Accordingly, the reply to the Office action mailed March 16, 2006 is accepted as having been unintentionally delayed.

This application is being referred to Technology Center AU 3762 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

Commissioner for Patents
United States Patent and Trademark Office
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Arlington, VA 22313-1450
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Paper No. 13

Dorsey & Whitney
Four Embarcadero Center
Suite 3400
San Francisco, CA 94111-4187

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JUL 2 2 2003

OFFICE OF PETITIONS

In re Application of :
Shen et al. :
Application No. 10/177,727 :
Filed: June 20, 2002 :
Attorney Docket No. A-70987/RMS/DCF[469249-0] :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 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 Notice to File Missing Parts (Notice) mailed July 30, 2002, which set a period for reply of (2) Two Months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on September 30, 2002.

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

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

Latrice Bond

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

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

Robin M. Silva, Esq.
DORSEY & WHITNEY LLP
Suite 3400
Four Embarcadero Center
San Francisco CA 94111-4187

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MAY 14 2004
OFFICE OF PETITIONS

In re Application of
Shen et al.
Application No. 10/177,727
Filed: June 20, 2002
For: MULTIPLEX NUCLEIC ACID REACTIONS
Attorney Docket No: 67234-021
Pub. No.: US 2003/0211489 A1
Pub. Date: November 13, 2003

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on January 13, 2004 for the above-identified application.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains errors in the priority information submitted by applicant and that the first paragraph (reference to government support) and second paragraph (benefit claim) of the application were inverted in the patent application publication.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records . . . Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1]

The error by inverting the first and second paragraphs the specification wherein the benefit claim was placed as the first sentence of the specification before the reference to the government interest is an Office error but it is not a material error, as required by 37 CFR 1.221(b). The error in inverting the first and second paragraphs is not a material mistake because it attempted to place the publication in proper order, as the benefit claim is supposed to be the first sentence of the application, however it does not fix application. The error also does not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope

[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).

of the patent application publication or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. The specification and claims were accurately published, thus one can read and understand the content of the application.

On June 20, 2002, the application was filed with priority information that did not comply with 37 CFR 1.78, as the benefit claim was not the first sentence of the application and it did not include the proper relationship between the applications, nor did it identify the intermediate nonprovisional applications for the provisional applications in a proper order.[2] The USPTO attempted to enter applicants benefit claim, which was included on the Filing Receipt. On October 18, 2002, applicant filed a preliminary amendment to correct the benefit claim, however it was also improper, as it did not include the proper relationships between the applications, nor did it identify the intermediate nonprovisional applications for the provisional applications in a proper order.

In order to make a late benefit claim to the earlier filed applications, applicant must submit a petition to accept an unintentionally delayed claim under 35 U.S.C. 119(e) and 120 for the benefit of the earlier filed applications. The petition must include 1) the surcharge ($1330) set forth in 37 CFR 1.14(t) and 2) a statement that the entire delay between the date the claim was due under paragraph (a)(5) of this section and the date the claim was filed was unintentional. The petition must also include a proper reference (amendment) to the prior applications in order for the petition to be granted.

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

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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[2]See Claiming the Benefit of a Prior-Filed Application under 35 U.S.C. §§ 119(e), 120, 121, and 365(c), 1268 Off. Gaz. Pat. Office Notices 89 (March 18, 2003).

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OFFICE OF PETITIONS

KILWORTH, GOTTMAN, HAGAN & SCHAEFF, L.L.P.
SUITE 500
ONE DAYTON CENTRE
DAYTON OH 45402-2023

In re Application of	:	
Chhaochharia et al.	:	DECISION ON PETITION
Application No. 10/177,741	:	UNDER 37 CFR 1.137(f)
Filed: 21 June, 2002	:	
Attorney Docket No. NAA 0005PA	:	

This is a decision on the petition under 37 CFR 1.137(b), which is properly treated as a petition under 37 CFR 1.137(f), filed on 16 May, 2003.

The petition is **DISMISSED AS MOOT**.

A review of the record reveals that the nonpublication request was rescinded on 15 July, 2002. Petitioners assert that the counterpart foreign application was filed on 10 September, 2002.

If an applicant makes a nonpublication request and then rescinds the nonpublication request before or on the date a counterpart application is filed in a eighteen-month publication country, the application will be treated as if the nonpublication request was never made.

As such, the petition is dismissed as moot. In according with the communication entitled "Withdrawal of Petition to Revive Abandonment of the Application Under 37 CFR 1.137(b)" filed by facsimile on 25 June, 2003, the petition fee of $650.00 will be refunded via Treasury Check.

This application is being forwarded to Technology Center 2600 for examination in due course.

Telephone inquiries specifically concerning this decision be directed to the undersigned at (703) 308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

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OIPE JC112 AUG 1 6 2002 PATENT & TRADEMARK OFFICE

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission: 30

Application Number	10/177,744
Filing Date	June 21, 2002
First Named Inventor	ANDREWS, WILLIAM H.
Group Art Unit	1645
Examiner Name	Unassigned
Attorney Docket Number	SIER-020

ENCLOSURES (check all that apply)

- [x] Fee Transmittal Form
  - [ ] Fee Attached
- [x] Preliminary Amendment
  - [ ] After Final
  - [ ] Affidavits/declaration(s)
- [ ] Extension of Time Request
- [ ] Express Abandonment Request
- [x] Information Disclosure Statement
- [ ] Certified Copy of Priority Documents
- [x] Response to Missing Parts/ Incomplete Application
  - [ ] 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
- [x] Other Enclosure(s) *(please identify below):*

Executed Declaration;
Certification Regarding Sequence Listing and Preliminary Amendment;
Paper Copy of Sequence Listing ;
1 CRF Disk;
PTO Form SB08A;
25 Documents;
Return receipt postcard.

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual Name	BRET E. FIELD, Reg. No. 37,620
Signature	
Date	August 12, 2002

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: Commissioner for Patents, Washington, DC 20231 on this date: August 12, 2002.

Typed or printed name	Donna Macedo		
Signature		Date	August 12, 2002

Burden Hour Statement: This form is estimated to take .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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OIPE JC12 AUG 16 2002 PATENT & TRADEMARK OFFICE

FEE TRANSMITTAL for FY 2002

Patent fees are subject to annual revision.

TOTAL AMOUNT OF PAYMENT	($) 486.00

Complete if Known	
Application Number	10/177,744
Filing Date	June 21, 2002
First Named Inventor	ANDREWS, WILLIAM H.
Examiner Name	Unassigned
Group Art Unit	1645
Attorney Docket No.	SIER-020

METHOD OF PAYMENT

1. ☒ The Commissioner is hereby authorized to charge indicated fees and credit overpayments to:
Deposit Account Number **50-0815**
Deposit Account Name **Bozicevic, Field & Francis LLP**
☒ Charge Any Additional Fee Required Under 37 CFR 1.1 6 and 1.17
☒ Applicant Claims small entity status. See 37 CFR 1.27

2. ☐ **Payment Enclosed:**
☐ Check ☐ Credit Card ☐ Money Order ☐ Other

FEE CALCULATION

2. 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	370.00
106	330	206	165	Design filing fee	
107	510	207	255	Plant filing fee	
108	740	208	370	Reissue filing fee	
114	160	214	80	Provisional filing fee	
				SUBTOTAL (1)	370.00

1. EXTRA CLAIM FEES

	Extra Claims		Fee from below	Fee Paid
Total Claims 21-20**	= 1	x	9.00	= 91.00
Indep. Claims 4-3**	= 1	x	42.00	= 42.00
Multiple Dependent			=	

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description
103	18	203	9	Claims in excess of 20
102	84	202	42	Independent claims in excess of 3
104	280	204	140	Multiple dependent claim, if not paid
109	84	209	42	** Reissue independent claims over original patent
110	18	210	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) $ 51.00

**or number previously paid, if greater; For Reissues, see above.*

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
105	130	205	65	Surcharge – late filing fee or oath	65.00
127	50	227	25	Surcharge – late provisional filing fee or cover sheet	
139	130	139	130	Non-English specification	
147	2,520	147	2,520	For filing a request for *ex parte* reexamination	
112	920*	112	920*	Requesting publication of SIR prior to Examination action	
113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action	
115	110	215	55	Extension for reply within first month	
116	400	216	200	Extension for reply within second month	
117	920	217	460	Extension for reply within third month	
118	1,440	218	720	Extension for reply within fourth month	
128	1,960	228	980	Extension for reply within fifth month	
119	320	219	160	Notice of Appeal	
120	320	220	160	Filing a brief in support of an appeal	
121	280	221	140	Request for oral hearing	
138	1,510	138	1,510	Petition to institute a public use proceeding	
140	110	240	55	Petition to revive – unavoidable	
141	1,280	241	640	Petition to revive – unintentional	
142	1,280	242	640	Utility issue fee (or reissue)	
143	460	243	230	Design issue fee	
144	620	244	310	Plant issue fee	
122	130	122	130	Petitions to the Commissioner	
123	50	123	50	Processing fee under 37 CFR 1.17(q)	
126	180	126	180	Submission of Information Disclosure Stmt	
581	40	581	40	Recording each patent assignment per property (times number of properties)	
146	740	246	370	For each additional invention to be examined (37 CFR § 1.129(a))	
149	740	249	370	For each additional invention to be examined (37 CFR § 1.129(b))	
179	740	279	370	Request for Continued Examination (RCE)	
169	900	169	900	Request for expedited examination of a design application	

Other fee (specify)_____

*Reduced by Basic Filing Fee Paid **SUBTOTAL (3) ($) 65.00**

SUBMITTED BY				Complete (*if applicable*)	
Name (Print/Type)	Bret E. Field	*Registration No. (Attorney/Agent)*	37,620	*Telephone*	(650) 327-3400
Signature				*Date*	08/12/2002

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.

#5

UNITED STATES PATENT AND TRADEMARK OFFICE

#3

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
10/177,744	06/21/2002	William H. Andrews	SIER-020

CONFIRMATION NO. 9295

FORMALITIES LETTER

OC000000008518952

24353
BOZICEVIC, FIELD & FRANCIS LLP
200 MIDDLEFIELD RD
SUITE 200
MENLO PARK, CA 94025

OIPE JC112
AUG 16 2002
PATENT & TRADEMARK OFFICE

Date Mailed: 07/25/2002

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.
  Applicant must submit $ **370** *to complete the basic filing fee for a small entity.*
- The oath or declaration is missing.
  A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of $65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.

- This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing", an initial paper or compact disc copy of the "Sequence Listing", as well as an amendment directing its entry into the application. Applicant must also provide a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

08/20/2002 ADSMAN1 00000064 500815 10177744

01 FC:201 370.00 CH
02 FC:202 42.00 CH
03 FC:203 9.00 CH
04 FC:205 65.00 CH

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AUG 16 2002
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For questions regarding compliance to these requirements, please contact:

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

Items Required To Avoid Processing Delays:

The item(s) indicated below are also required and should be submitted with any reply to this notice to avoid further processing delays.

- Additional claim fees of $**411** as a small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is $**846** for a Small Entity

- $**370** Statutory basic filing fee.
- $**65** Late oath or declaration Surcharge.
- Total additional claim fee(s) for this application is $**411**
  - $**243** for **27** total claims over 20.
  - $**168** for **4** independent claims over 3.

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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OCT 2 2 2002
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Commissioner for Patents
Washington, DC 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/177,744	06/21/2002	William H. Andrews	SIER-020

CONFIRMATION NO. 9295

FORMALITIES LETTER

OC000000008900973

24353
BOZICEVIC, FIELD & FRANCIS LLP
200 MIDDLEFIELD RD
SUITE 200
MENLO PARK, CA 94025

Date Mailed: 10/03/2002

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

Filing Date Granted

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

- A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing." Applicant must provide a substitute computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d).

For questions regarding compliance to these requirements, please contact:

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

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BIOTECHNOLOGY SYSTEMS BRANCH

915

RAW SEQUENCE LISTING ERROR REPORT

The Biotechnology Systems Branch of the Scientific and Technical Information Center (STIC) detected errors when processing the following computer readable form:

Application Serial Number: 10/177,744
Source: OIPE
Date Processed by STIC: 9/17/02

THE ATTACHED PRINTOUT EXPLAINS DETECTED ERRORS.
PLEASE FORWARD THIS INFORMATION TO THE APPLICANT BY EITHER:

1) **INCLUDING A COPY OF THIS PRINTOUT IN YOUR NEXT COMMUNICATION TO THE APPLICANT, WITH A NOTICE TO COMPLY or,**
2) **TELEPHONING APPLICANT AND FAXING A COPY OF THIS PRINTOUT, WITH A NOTICE TO COMPLY**

FOR CRF SUBMISSION QUESTIONS, PLEASE CONTACT MARK SPENCER, 703-308-4212.

FOR SEQUENCE RULES INTERPRETATION, PLEASE CONTACT ROBERT WAX, 703-308-4216.
PATENTIN 2.1 e-mail help: patin21help@uspto.gov or phone 703-306-4119 (R. Wax)
PATENTIN 3.0 e-mail help: patin3help@uspto.gov or phone 703-306-4119 (R. Wax)

TO **REDUCE** ERRORED SEQUENCE LISTINGS, **PLEASE** USE THE **CHECKER VERSION 3.1 PROGRAM**, ACCESSIBLE THROUGH THE U.S. PATENT AND TRADEMARK OFFICE WEBSITE. SEE BELOW FOR ADDRESS:
http://www.uspto.gov/web/offices/pac/checker

Applicants submitting genetic sequence information electronically on diskette or CD-Rom should be aware that there is a possibility that the disk/CD-Rom may have been affected by treatment given to all incoming mail.
Please consider using alternate methods of submission for the disk/CD-Rom or replacement disk/CD-Rom.
Any reply including a sequence listing in electronic form should NOT be sent to the 20231 zip code address for the United States Patent and Trademark Office, and instead should be sent via the following to the indicated addresses:

1. EFS-Bio (<**http://www.uspto.gov/ebc/efs/downloads/documents.htm**>, **EFS Submission User Manual** - ePAVE)
2. **U.S. Postal Service:** U.S. Patent and Trademark Office, Box Sequence, P.O. Box 2327, Arlington, VA 22202
3. **Hand Carry directly to:**
   U.S. Patent and Trademark Office, Technology Center 1600, Reception Area, 7th Floor, Examiner Name, Sequence Information, Crystal Mall One, 1911 South Clark Street, Arlington, VA 22202
   Or
   U.S. Patent and Trademark Office, Box Sequence, Customer Window, Lobby, Room 1B03, Crystal Plaza Two, 2011 South Clark Place, Arlington, VA 22202
4. **Federal Express, United Parcel Service, or other delivery service to:** U.S. Patent and Trademark Office, Box Sequence, Room 1B03-Mailroom, Crystal Plaza Two, 2011 South Clark Place, Arlington, VA 22202

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Does Not Comply
Corrected Diskette Needed

Errors on pp. 1+2

RAW SEQUENCE LISTING
PATENT APPLICATION: US/10/177,744

DATE: 09/17/2002
TIME: 13:52:12

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Output Set: N:\CRF4\09172002\J177744.raw

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 5       Foster, Christopher A.
 6       Fraser, Stephanie A.
 7       Mohammadpour, Hamid
 8       Briggs, Laura
10 <120> TITLE OF INVENTION: TELOMERASE EXPRESSION REPRESSOR PROTEINS
11       AND METHODS OF USING THE SAME
14 <130> FILE REFERENCE: SIER-020
16 <140> CURRENT APPLICATION NUMBER: US 10/177,744
17 <141> CURRENT FILING DATE: 2002-06-21
19 <150> PRIOR APPLICATION NUMBER: 60/366,069
20 <151> PRIOR FILING DATE: 2002-03-19
22 <150> PRIOR APPLICATION NUMBER: 60/300,115
23 <151> PRIOR FILING DATE: 2001-06-21
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→ must explain genetic source
— see error summary sheet item 11

RAW SEQUENCE LISTING DATE: 09/17/2002
PATENT APPLICATION: US/10/177,744 TIME: 13:52:12

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RAW SEQUENCE LISTING DATE: 09/17/2002
PATENT APPLICATION: US/10/177,744 TIME: 13:52:12

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    244 gcgctcagct gggacctggg ctcgtgcgct tagtccggag ccctgatctg cgaacaggat 360
    245 attaaaactt ttagtacaat tgattggact acttgaacca tcgggatttg gggaggaact 420
    246 ccagattttt catttttaaa ctctaaatgt atgaggaatt tacagaatgg agaacgaaaa 480
    247 ggaaaatctc ttttgtgagc cacataaaag gggactaatg aaaacacctc tgaaagaatc 540
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    249 taccaagccc aaggaaggct ctcagggaga gccgtggaca ccgacagcca acctgaaaat 660
    250 gctcatcagt gctgtgagcc ctgagatccg caacagagat cagaaaaggg gtttgtttga 720
    251 caacagaagt ggattacctg aggccaaaga ctgtatacac gaacacttat ctggagatga 780
    252 atttgagaaa tcccaaccaa gtcgaaaaga gaaaagttta ggattattgt gtcataagtt 840
    253 cttagcacga tatcctaatt atcccaaccc tgctgtgaat aatgacatct gccttgacga 900
    254 agtggcagag gaacttaatg ttgaacgtcg acgcatttac gatatcgtga acgtcctaga 960
    255 gagtttacat atggtgagcc gcctcgccaa aaacaggtac acttggcacg ggcgacacaa 1020
    256 tctcaacaaa acccttggca ccttgaagag catcggggag gagaataagt acgccgagca 1080
    257 gattatgatg atcaaaaaga aagaatatga gcaagagttt gactttatta agagttacag 1140
    258 tatagaggat catatcatca aatcaaacac tggcccaaat ggacacccag acatgtgttt 1200
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    261 aagcctagaa gttgctgcca agattttaat tggggaggac catgtggaag atttggataa 1380
    262 aagcaagttt aaaacaaaaa ttaggaggtt gtatgatata gctaatgttc tgagtagcct 1440
    263 ggatcttatc aagaaagttc atgttacaga ggaaagaggc cgaaaaccag ctttcaaatg 1500
    264 gaccggccca gaaatcagtc caaataccag tggctccagc ccagtcattc attttactcc 1560
    265 ctctgatttg gaggtgagac ggtcttcaaa agagaactgt gccaaaaacc tcttttccac 1620
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    270 atctggaccc tgcaaaccag tagcccctct ggacccccca gtgaatgctg agatggagct 1920
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    274 caccacccac tcttctaaag ctactggctc aaaagactcc acagatgcca ccactgagaa 2160
    275 ggcagccaat gatacctcaa aggccagtgc ctctaccagg cctggaagct tgctgccagc 2220
    276 accagagagg caaggggcaa agagccgaac cagggagcca gctggagaaa gaggctcaaa 2280
```

VERIFICATION SUMMARY DATE: 09/17/2002
PATENT APPLICATION: **US/10/177,744** TIME: 13:52:13

Input Set : **D:\Seqlist.txt**
Output Set: **N:\CRF4\09172002\J177744.raw**

L:231 M:300 W: (50) Intentionally skipped Sequence, : Sequence Id (9) SEQUENCE:

OIPE JC178
OCT 2 2 2002
PATENT & TRADEMARK OFFICE

OIPE

Raw Sequence Listing Error Summary

ERROR DETECTED	SUGGESTED CORRECTION	SERIAL NUMBER: 10/177,744

ATTN: NEW RULES CASES: PLEASE DISREGARD ENGLISH "ALPHA" HEADERS, WHICH WERE INSERTED BY PTO SOFTWARE

1_____Wrapped Nucleics Wrapped Aminos	The number/text at the end of each line "wrapped" down to the next line. This may occur if your file was retrieved in a word processor after creating it. Please adjust your right margin to .3; this will prevent "wrapping."
2_____Invalid Line Length	The rules require that a line not exceed 72 characters in length. This includes white spaces.
3_____Misaligned Amino Numbering	The numbering under each 5th amino acid is misaligned. Do not use tab codes between numbers; use space characters, instead.
4_____Non-ASCII	The submitted file was not saved in ASCII(DOS) text, as required by the Sequence Rules. Please ensure your subsequent submission is saved in ASCII text.
5_____Variable Length	Sequence(s)____contain n's or Xaa's representing more than one residue. Per Sequence Rules, each n or Xaa can only represent a single residue. Please present the maximum number of each residue having variable length and indicate in the <220>-<223> section that some may be missing.
6_____PatentIn 2.0 "bug"	A "bug" in PatentIn version 2.0 has caused the <220>-<223> section to be missing from amino acid sequences(s) _____. Normally, PatentIn would automatically generate this section from the previously coded nucleic acid sequence. Please manually copy the relevant <220>-<223> section to the subsequent amino acid sequence. This applies to the mandatory <220>-<223> sections for Artificial or Unknown sequences.
7_____Skipped Sequences (OLD RULES)	Sequence(s) _____ missing. If intentional, please insert the following lines for each skipped sequence: (2) INFORMATION FOR SEQ ID NO:X: (insert SEQ ID NO where "X" is shown) (i) SEQUENCE CHARACTERISTICS: (Do not insert any subheadings under this heading) (xi) SEQUENCE DESCRIPTION:SEQ ID NO:X: (insert SEQ ID NO where "X" is shown) This sequence is intentionally skipped Please also adjust the "(ii) NUMBER OF SEQUENCES:" response to include the skipped sequences.
8_____Skipped Sequences (NEW RULES)	Sequence(s) _____ missing. If intentional, please insert the following lines for each skipped sequence. <210> sequence id number <400> sequence id number 000
9_____Use of n's or Xaa's (NEW RULES)	Use of n's and/or Xaa's have been detected in the Sequence Listing. Per 1.823 of Sequence Rules, use of <220>-<223> is MANDATORY if n's or Xaa's are present. In <220> to <223> section, please explain location of n or Xaa, and which residue n or Xaa represents.
10_____Invalid <213> Response	Per 1.823 of Sequence Rules, the only valid <213> responses are: Unknown, Artificial Sequence, or scientific name (Genus/species). <220>-<223> section is required when <213> response is Unknown or is Artificial Sequence
11 ✓ Use of <220>	Sequence(s) 1-7 missing the <220> "Feature" and associated numeric identifiers and responses. Use of <220> to <223> is MANDATORY if <213> "Organism" response is "Artificial Sequence" or "Unknown." Please explain source of genetic material in <220> to <223> section. (See "Federal Register," 06/01/1998, Vol. 63, No. 104, pp. 29631-32) (Sec. 1.823 of Sequence Rules)
12_____PatentIn 2.0 "bug"	Please do not use "Copy to Disk" function of PatentIn version 2.0. This causes a corrupted file, resulting in missing mandatory numeric identifiers and responses (as indicated on raw sequence listing). Instead, please use "File Manager" or any other manual means to copy file to floppy disk.
3_____Misuse of n	n can only be used to represent a single nucleotide in a nucleic acid sequence. N is not used to represent any value not specifically a nucleotide.

AMC/MH – Biotechnology Systems Branch – 08/21/2001

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BOZICEVIC, FIELD & FRANCIS LLP
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SUITE 200
MENLO PARK CA 94025

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OCT 21 2003

OFFICE OF PETITIONS

In re Application of
Andrews et al.
Application No. 10/177,744
Filed: June 21, 2002
For: TELOMERASE EXPRESSION REPRESSOR PROTEINS AND METHODS OF USING THE SAME
Attorney Docket No: SIER-020
Pub. No.: US 2003/0096732 A1
Pub. Date: May 22, 2003

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on July 17, 2003 for the above-identified application.

The request is DISMISSED.

The instant request is that the application be republished because the publication omits three inventors on the front page of the publication.

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

The errors in omitting the three inventor's names on the front page of the publication are Office errors, but they are not material errors. The errors do not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. The errors have previously been corrected in the Office's system. To avoid this type of problem in the future, applicant's representative should request a corrected filing receipt using the facsimile number (703-746-9195) on the Filing Receipt.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in

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

§ 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

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

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

By facsimile: 703-305-8568

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

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

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BOZICEVIC, FIELD & FRANCIS
200 MIDDLEFIELD RD
SUITE 200
EAST PALO ALTO, CA 94303

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APR 2 9 2005

OFFICE OF PETITIONS

In re Application of	:	
William H. Andrews et al	:	
Application No. 10/177,744	:	DECISION GRANTING PETITION
Filed: June 21, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. SIER-020	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 23, 2004, to revive the above-identified application.

The petition is **GRANTED**.

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

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an election; (2) the petition fee; and (3) the statement of unintentional delay have been received. Accordingly, the reply to the Office action of April 20, 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 1636.

Karen Creasy

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

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JUL 1 9 2004

OFFICE OF PETITIONS

In re Application of :
Wayne P. Hess et al :
Application No. 10/177,745 :
Filed: June 21, 2002 :
Attorney Docket No. 23-62915 :

ON PETITION

This is a decision on the petition, filed July 16, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on March 22, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2881 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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MORGAN, LEWIS & BOCKIUS, LLP. (PA)
2 PALO ALTO SQUARE
3000 EL CAMINO REAL, SUITE 700
PALO ALTO, CA 94306

MAILED

FEB 22 2010

OFFICE OF PETITIONS

In re Patent No. **6,999,986**	:	
Issue Date: February 14, 2006	:	
Application No. 10/177,746	:	NOTICE UNDER 37 CFR 1.28(C)
Filed: June 24, 2002	:	
Attorney Docket No. **060976-5012US**	:	

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

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

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

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

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

/Monica A. Graves/
Petitions Examiner, Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 200507

DATE : 5/5/05

TO SPE OF : ART UNIT 2854

SUBJECT : Request for Certificate of Correction on Patent No.: 6867413

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. Can Drawings be Approved.

Henry Randall
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 drawings submitted April 4 2005 are acceptable.

SPE

2878
Art Unit

PTOL-306 (REV. 7/03)

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HESLIN ROTHENBERG FARLEY & MESITI PC
5 COLUMBIA CIRCLE
ALBANY, NY 12203

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JAN 21 2009

In re Patent No. 6,867,413 :
Issue Date: March 15, 2005 :
Application No. 10/177,749 : NOTICE
Filed: June 21, 2002 :
Attorney Docket No. 0103.087

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

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

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

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

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ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS, VA 20165

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OFFICE OF PETITIONS
ON PETITION

In re Application of
Kiyofumi Ogino et al
Application No. 10/177,752
Filed: June 24, 2002
Attorney Docket No. 0756-7008

This is a decision on the petition, filed February 5, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 1765 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

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ERIC ROBINSON
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POTOMAC FALLS, VA 20165

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2/12/04

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OFFICE OF PETITIONS

In re Application of
Kiyofumi Ogino et al
Application No. 10/177,752
Filed: June 24, 2002
Attorney Docket No. 0756-7008

ON PETITION

This is a decision on the petition, filed February 5, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 1765 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

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VANCOUVER BC V6B 1G1
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OFFICE OF PETITIONS

In re Application of
Goodin, et al.
Application No. 10/177,754
Filed: June 24, 2002
Attorney Docket No. C5250136

: DECISION DISMISSING
: PETITION UNDER
: 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 7, 2003, to accept an unintentionally delayed claim under 35 USC 120 for the benefit of several nonprovisional applications.

The petition is **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 CFR 1.78." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

A petition 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), and must be filed during the pendency of the nonprovisional application. In addition, the petition must accompanied by:

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

(2) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) and the date the claim was filed as unintentional; and

(3)the reference to the prior filed nonprovisional application, supplied in an application data sheet, or as an amendment in the first sentence following the title. *See* 35 USC 120 and 37 CFR 1.78(a)(2). The Commissioner may require additional information where there is a question whether the delay was unintentional.

Petitioner has filed an amendment to the first line of the specification that states:

> This application is a continuation-in-part of our prior applications Serial No. 09/745,548, filed December 26, 2000; Serial No. 09/745,520, filed December 26, 2000; Serial No. 09/785,339, filed February 20, 2001; Serial No. 09/785,338, filed February 20, 2001; Serial No. 09/909,791, filed July 23, 2001; Serial No. 09/909,792, filed July 23, 2001; Serial No. 90/909,777, filed July 23, 2001; and Serial No. 09/909,964, filed July 23, 2001.

However, petitioner has not indicated the relationships between the applications for which benefit is sought, as is required by 37 CFR 1.78(a)(2).

That section provides that

> [e]xcept for a continued prosecution application filed under 37 CFR 1.53(d), any nonprovisional application claiming the benefit of one or more prior filed copending nonprovisional applications or international applications designating the United States of America must contain a reference to each such prior application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date and *indicating the relationship of the applications*. (Emphasis supplied)

Petitioner has failed to indicate the relationship between the applications. Petitioner has only provided that "[t]his application is a continuation in part " to the applications for which the benefit is sought. Petitioner's attention is drawn to the Manual for Patent Examining Procedure ("MPEP") §201.11, which states that

> "..if the benefit of more than one nonprovisional application is claimed, then the relationship between each application (i.e., continuation, divisional, or continuation-in-part) must be specified in order to establish copendency throughout the entire chain of prior-filed applications."

Petitioner is required to amend the specification to state the relationship between each application throughout the chain of prior filed applications.

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

By mail:	Mail Stop PETITION Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By FAX:	(703) 308-6916 Attn: Office of Petitions
By HAND:	Crystal Plaza Four, Suite 3C23 2201 South Clark Place Arlington, Virginia 22202

Telephone inquiries concerning this matter should be directed to petitions attorney E. Shirene Willis at (703) 308-6712.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

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In re Application of
Jonathan W. Goodin et al
Application No. 10/177,755
Filed: June 24, 2002
Attorney Docket No. C525 0129

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

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 7, 2003, 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 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 24, 2002, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

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

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

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

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

This application is being forwarded to Technology Center Art Unit 1752 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Karen Creasy

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. None

BANNER & WITCOFF
1001 G STREET N W
SUITE 1100
WASHINGTON DC 20001

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MAR 16 2006
OFFICE OF PETITIONS

In re Application of Raziq Yaqub et al. Application No. 10/177,765 Filed: June 24, 2002 Attorney Docket No. 004900.00007 Title: AUTHENTICATING MULTIPLE DEVICES SIMULTANEOUSLY OVER A WIRELESS LINK USING A SINGLE SUBSCRIBER IDENTITY MODULE	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 February 7, 2006. a supplement to this petition was received on February 13, 2006.

BACKGROUND

A non-final Office action was mailed on November 22, 2004, and an amendment was received on February 22, 2005. A second amendment was received on May 9, 2005. The above-identified application became abandoned for failure to reply in a timely manner to the subsequently mailed Notice of Non-Compliant Amendment (notice), mailed May 18, 2005, which set a period for response of one month. No response was received, and no extensions of time were obtained. Accordingly, the above-identified application became abandoned on June 19, 2005. A notice of abandonment was mailed on December 28, 2005.

With the present petition, Petitioner has alleged that the mailing was not received, has set forth that he has searched

both the file jacket and the docket records, and has included copies of the same. Petitioner has also submitted 12 sheets of drawings.

CONCLUSION

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that petitioner has met his burden of establishing that the mailing was not received.

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Office of Initial Patent Examination 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

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)
6758212	2004-07-06	10177770	2002-06-24	90/1662US

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	/kirkadamman/	Date (YYYY-MM-DD)	2008-08-15
Name	Kirk A. Damman	Registration Number	42461

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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In re Patent No. 6758212
Issue Date: July 6,2004
Application No. 10177770
Filed: June 24,2002
Attorney Docket No. 90/1662US

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

This is a decision on the electronic petition, filed August 15,2008 ,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 15,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

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Paper No. 091304

DUANE MORRIS LLP
100 COLLEGE ROAD WEST, SUITE 100
PRINCETON, NJ 08540

OCT 1 2004

In re Application of:	:	
JOSEPH LAWRENCE CHOVAN et al.	:	
Serial No.: 10/177,790	:	DECISION ON REQUEST TO WITHDRAW
Filed: June 20, 2002	:	FROM RECORD
Attorney Docket No.: **N0650-00127**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed August 06, 2004.

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

The request meets all the above stated requirements. The request was signed by Paul A. Schwarz, on behalf of himself and all the attorneys/agents of record. There is no outstanding Office action at this time.

The request is **APPROVED**.

All future communications from the Office will be directed to Plevy & Howard, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Edward Westin at (571) 272-1638.

Edward Westin

Edward Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: PLEVY & HOWARD
600 NORTH EASTON ROAD
WILLOW GROVE, PA 19090

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PLEVY & HOWARD, P.C.
P.O. BOX 226
FORT WASHINGTON, PA 19034

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In re Application of	:	
Joseph Lawrence Chovan, et. al.	:	
Application No. 10/177,790	:	ON PETITION
Filed: June 20, 2002	:	
Attorney Docket No. LMC-33	:	

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

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) due mailed on November 7, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $1,400 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

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R. MICHAEL ANANIAN
DORSEY & WHITNEY LLP
SUITE 3400
FOUR EMBARCADERO
SAN FRANCISCO CA 94111-4187

In re Application of	:	
Ahmet Alpdemir, et al.	:	
Application No. 10/177,796	:	DECISION ON PETITION
Filed: June 19, 2002	:	TO WITHDRAW
Attorney Docket No. A-69342-1/RMA	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 CFR § 1.36(b) or 37 CFR § 10.40 filed September 22, 2005.

The request is **APPROVED**.

A review of the file record indicates that R. Michael Ananian: (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, R. Michael Ananian has 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 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) the intervening assignee of the entire interest. All future communications from the Office will be directed to the first named signing inventor or the assignee of the entire interest under 37 C.F.R. §3.71 at the first copied address below until otherwise properly notified by the applicant. A courtesy copy of this decision is being mailed to the address noted on the Request to Withdraw.

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

There is no outstanding Office action that requires a reply from the applicant.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: AHMET ALPDEMIR
2318 OAK FLAT ROAD
SAN JOSE CA 95131

LUCE FORWARD HAMILTON & SCRIPPS LLP
121 SPEAR STREET, SUITE 200
SAN FRANCISCO, CA 94105

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OFFICE OF PETITIONS

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

In re Application of	:	
Alpdemir et al.	:	
Application Number: 10/177796	:	DECISION DISMISSING PETITIONS
Filing or 371(c) Date: 06/19/2002	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket Number: 2222.4340004	:	
	:	

This is a decision on the petition filed on September 11, 2009, which is treated as a petition filed under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment and application data sheet (ADS).

The petition is **DISMISSED**

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

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

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

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

At the outset, the amendment filed with the present petition 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).

Furthermore, with regard to the ADS, where an application claims a benefit under 35 U.S.C. 120 of a chain of applications, the application must make a reference to the first (earliest) application and every intermediate application. See Sampson v. Ampex Corp., 463 F.2d 1042, 1044-45, 174 USPQ 417, 418-19 (2d Cir. 1972); Sticker Indus. Supply Corp. v. Blaw-Knox Co., 405 F.2d 90, 93, 160 USPQ 177, 179 (7th Cir. 1968); Hovlid v. Asari, 305 F.2d 747, 751, 134 USPQ 162, 165 (9th Cir. 1962). See also MPEP 201.11. In addition, every intermediate application must also make a reference to the first (earliest) application and every application after the first application and before such intermediate application. MPEP 201.06(d).

Petitioners should review the claim for priority to ensure that a reference is made to the first application and to every intermediate application. In this regard, it is noted that the claim of priority recited in the amendment and ADS state that this application is, *inter alia*, a continuation of Application No. 09/818,258, filed March 26, 2001, which is a non-provisional of Application No. 60/219,079, filed July 18, 2000, and which is also a continuation-in-part of Application No. 09/534,700, filed March 24, 2000. However, a proper claim of benefit under 35 U.S.C. 120 to Application No. 09/534,700 was not timely asserted in Application No. 09/818,258. Specifically, it is noted that the first sentence of the specification of Application No. 09/818,258 states that that application "claims the benefit of priority to" Application No. 09/534,700, but does not specify the type of relationship. Further, it should be noted that the filing date of Application No. 60/219,079 is July 18, 2000 and not June 18, 2000, as set forth in the priority claim.

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.78(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing

date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications.

Before the petition under 37 CFR 1.78(a)(3) and (a)(6) can be granted in the present application, petitioner must file a grantable petition under 37 CFR 1.78(a)(3) in Application No. 09/818,258, accompanied by either a Supplemental Application Data Sheet (signed in compliance with 37 CFR 1.33(b) and in compliance with 37 CFR 1.76) or a substitute amendment (complying with the provisions of 37 CFR 1.121) to add the claim of benefit to the prior filed nonprovisional application.

Upon the grant of the petition filed under 37 CFR 1.78(a)(3) in Application No. 09/818,258, petitioner may filed a renewed petition under 37 CFR 1.78(a)(3) and (a)(6) in the present application.

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

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

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

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

Any questions concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Anthony Knight
Supervisor
Office of Petitions

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NIKOLAI & MERSEREAU, P.A.
900 SECOND AVENUE SOUTH
SUITE 820
MINNEAPOLIS, MN 55402

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ON PETITION

In re Application of :
Richard Jerome Schoeneck :
Application No. 10/177,799 :
Filed: June 19, 2002 :
Attorney Docket No. 15983/137CIP :

This is a decision on the petition under 37 CFR 1.137(b), filed July 23, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed April 9, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on July 9, 2004.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter is being forwarded to the Publishing Division for further processing.

Retta Williams

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

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NEW YORK, NY 10112

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OFFICE OF PETITIONS

In re Application of
Fisher, et al.
Application No. 10/177,811
Filed: June 20, 2002
Attorney Docket No. A34613A-PCT-USAA070050

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.182 filed November 25, 2002. The petition will be treated under 37 CFR 1.10.

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 1.10."

The instant petition was filed to correct what petitioner believed was an incorrect filing date accorded the provisional application (60/173,114) that served as the priority document for the international application for which the above-cited application is a continuation. Petitioner maintains that the correct filing date for the provisional application should be December 20, 1999, not the presently accorded filing date of December 27, 1999. It should be noted that 37 CFR 1.10(d) was selected as the governing provision because a review of the provisional application file revealed the Express Mail mailing label and the "date-in" was blank. A copy of the Express Mail label was previously provided to petitioner in a decision dismissing a similar petition filed in the provisional application itself.

Section 1.10(d) of the Title 37 of the Code of Federal Regulations indicates if a showing is made that the "date-in" on the Express Mail label was incorrectly entered or omitted by the United States Postal Service, a petition to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the United States Postal Service, 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 on the Express Mail mailing label was placed on a 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 established, 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.

The instant petition does not satisfy the requirements of item (3) above.

Relative to item (3) above, petitioner did not provide any evidence that came into being after deposit and within one business day of the deposit of the application with the USPS. The evidence that was provided either came into being more than one business day after the deposit of the application or came into existence before the provisional application was filed. Petitioner must provide evidence that fits mets the criteria stated in 37 CFR 1.10(d)(3).

Further petitioner is advised that certificate of mailing procedures cannot be used to establish an application filing date, including a request for continued prosecution application under 37 CFR 1.53(d). See 37 CFR 1.8(a)(2)(i)(A). Petitioner must provide satisfactory evidence that meets the requirements of 37 CFR 1.10(d) before any renewed petition will be considered grantable.

Alternatively, petitioner may request that Office waive or suspend the requirements of 37 CFR 1.10(d)3) pursuant 37 CFR 1.183. Petitioner should refer to 37 CFR 1.183 for further guidance on filing a grantable petition.

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

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

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

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

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

Kenya A. McLaughlin
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

IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11400 BURNET ROAD
AUSTIN, TX 78758

COPY MAILED

MAY 16 2008

OFFICE OF PETITIONS

In re Application of :
ALLAN, Ronald C. :
Application No. 10/177,817 :
Filed: June 20, 2002 :
Attorney Docket No. **AU920020145US1** :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 15, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 20, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 21, 2006.

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

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Mr. Rakesh Garg appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If Mr. Garg desires to receive future correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to 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 application is being referred to Technology Center Art Unit 2141 for consideration of the amendment filed December 15, 2006.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: **RAKESH GARG**
P.O. BOX 802333
DALLAS, TX 75380

UNITED STATES 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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JUL 01 2010

OFFICE OF PETITIONS

FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent of Davis et al.	:	DECISION ON REQUEST
Patent No. 7,620,904	:	FOR RECONSIDERATION OF
Issue Date: November 17, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/177,819	:	AND NOTICE OF INTENT TO
Filing Date: June 21, 2002	:	ISSUE CERTIFICATE OF
Attorney Docket No. 15786-0036001	:	CORRECTION

This is a decision on the petition filed on January 14, 2010, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by seven hundred fifteen (715) days.

The petition to correct the patent term adjustment indicated on the patent to indicate the term of the patent is extended or adjusted by seven hundred fifteen (715) days is **GRANTED**.

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the patent is extended or adjusted by **seven hundred fifteen (715)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:	7,620,904 B1
APPLICATION NO.	:	10/177,819
DATED	:	November 17, 2009
INVENTOR(S)	:	Kenneth L. Davis et al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the Title page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 379 days.

Delete the phrase "by 379 days" and insert -- by 715 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4-28-09

TO SPE OF : ART UNIT 3682

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/177824 Patent No.: 7632689

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

FOR IFW FILES: Please check Claims

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: _____

DAVID BAGNELL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600 3672
SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PANITCH SCHWARZE BELISARIO & NADEL LLP
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA, PA 19103

Mail Date: 04/20/2010

Applicant	: Haruya Nakai	: DECISION ON REQUEST FOR
Patent Number	: 7655355	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/177,854	: 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 **109** 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

LYON & LYON
633 WEST FIFTH STREET
SUITE 4700
LOS ANGELES, CA 90071

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MAR 0 1 2005

OFFICE OF PETITIONS

In re Application of :
Matthew J. Zimmerman et al :
Application No. 10/177,889 : ON PETITION
Filed: June 21, 2002 :
Attorney Docket No. 274/087 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 8, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." No additional fee is required with any renewed petition. Petitioner is advised that this is **not** a final agency action decision.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 20, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 21, 2003.

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

All the requirements being met. However, the petition lacks the signature of the second inventor. 37 CFR 1.33(b) states that amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii), filed in the application must be signed by:

(1) A registered attorney or agent not of record who acts in a representative capacity under provisions of § 1.34(b);

(2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);

(3) An assignee as provided for under §3.71(b); or

(4) **All of the applicants** (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71.

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

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

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

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

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

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

Wan Laymon

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

cc: MATTHEW ZIMMERMAN
C/O FARSOUNDER INC.
95 HATHAWAY CENTER, SUITE 5
PROVIDENCE, RI 02907

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MATTHEW J. ZIMMERMAN
FARSOUNDER INC
95 HATHAWAY ST
SUITE 5
PROVIDENCE, RI 02907

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MAY 0 3 2005

OFFICE OF PETITIONS

In re Application of :
Matthew J. Zimmerman et al :
Application No. 10/177,889 : ON PETITION
Filed: June 21, 2002 :
Attorney Docket No. 274/087 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed April 14, 2005, to revive the above-identified application.

The petition is GRANTED.

The Power of Attorney and Correspondence Address Indication Form filed April 14, 2005 is entered and made of record (copies attached).

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

This matter is being referred to Technology Center AU 3662.

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

Attachment: Notice of Acceptance of Power of Attorney
Notice Regarding Change of Power of Attorney

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Sheryl Sue Holloway
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1026

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OFFICE OF PETITIONS

In re Application of	:	
FALLEN-BAILEY, et al.	:	
Application No. 10/177,891	:	DECISION ON PETITION
Filed: June 20, 2002	:	TO WITHDRAW
Attorney Docket No. 005306.P081	:	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
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/177,891	06/20/2002	Tim Fallen-Bailey	005306.P081

CONFIRMATION NO. 3186

OC000000020461587

Sheryl Sue Holloway
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

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).

PVolpe

PATRICIA A VOLPE
OP (571) 272-6825

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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MAY 2 4 2005

OFFICE OF PETITIONS

In re Application of	:
Jane Ann Chase et al	:
Application No. 10/177,901	: DECISION GRANTING PETITION
Filed: June 19, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 163.1572US11	:

This is a decision on the petition, filed May 13, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 8, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3751 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DEMONT & BREYER, LLC
SUITE 250
100 COMMONS WAY
HOLMDEL, NJ 07733

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APR 14 2005

OFFICE OF PETITIONS

In re Patent No. 6,762,128 :
Issue Date: July 13, 2004 :
Application No. 10/177,915 : ON PETITION
Filed: June 20, 2002 :
Attorney Docket No. FE-004444DIV :

This is a decision on the petition filed December 10, 2004, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of Certificate of Correction.

The petition is **dismissed**.

A request for a certificate of correction (accompanied by the fee set forth in 37 CFR 1.20(a)) must accompany the instant request. *See* 37 CFR 3.81(b).

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

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

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

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

---

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

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

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DEMONT & BREYER, LLC
SUITE 250
100 COMMONS WAY
HOLMDEL, NJ 07733

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JUN 24 2005

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 6,762,128 :
Issue Date: July 13, 2004 :
Application No. 10/177,915 :
Filed: June 20, 2002 :
Attorney Docket No. FE-004444DIV :

This is a decision on the renewed petition filed May 27, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of Certificate of Correction.

The petition is granted.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

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

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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

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

DATE : 2/26/04

TO : Examiner Paul Marcantoni

VIA : Art Unit 1755

FROM : R. Q. Tang

SERIAL NO : 10/177,918

☐ Please consider **Paper No.** _____ to see if the proposed response would place this application in condition for allowance in the event it is revived.

If the response would place the application in condition for allowance, write in the margin of the response "Ok to enter upon revival."

If the response would not place the application in condition for allowance, complete Form PTOL-303, but do not mail the form to the applicant.

PLEASE HAND CARRY THE FILE TO FOUR CRYSTAL PLAZA, SUITE 3C23 WITHIN ONE WEEK OF THE ABOVE DATE.

☒ Please consider **Paper No.** 6 as a Petition to Withdraw the Holding of Abandonment in view of the statements presented by petitioner that ~~a response was timely filed~~. If the request is granted, the petition fee should be refunded to petitioner. If the request is not granted, please forward the application to the **Office of Petitions, Crystal Plaza Four, Suite 3C23** for consideration of the alternative Petition to Revive.

The 4/15/03 O.A. was never rec'd by new attorney because 12/7/02 POA & change of correspondence address was not entered into record.

NC

Petitions Attorney
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

Thank you!

Attorney's Docket No.: 13681-002001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Fritz H. Bach et al.
Serial No. : 10/177,930
Filed : June 21, 2002

Art Unit : 1651
Examiner : Sandra Saucier
Confirmation No.: 3559
Notice of Allowance Date: January 10, 2006

Title : CARBON MONOXIDE IMPROVES OUTCOMES IN TISSUE AND ORGAN TRANSPLANTS AND SUPPRESSES APOPTOSIS

RECEIVED
CENTRAL FAX CENTER
MAY 0 3 2006

Office of Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION UNDER 37 CFR 1.313(c)

Applicants hereby petition under §1.313(c)(2) for the withdrawal of this application from issue to permit consideration of an Information Disclosure Statement. The issue fee was paid on April 7, 2006.

A Request for Continued Examination and Information Disclosure Statement are being filed concurrently by facsimile to Mail Stop RCE at (571) 273-8300. The Request is intended to continue this application on the grant of this petition.

Please charge the $130 Petition fee required by 1.17(i), and any other charges or credits, to Deposit Account No. 06-1050, referencing Attorney Docket No. 13681-002001.

Respectfully submitted,

Date: 5/3/06

Todd E. Garcia, Ph.D.
Reg. No. 54,112

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110
Telephone: (617) 542-5070
Facsimile: (617) 542-8906

21322562.doc

05/04/2006 YPOLITE1 00000070 061050 10177930
02 FC:1464 130.00 DA

CERTIFICATE OF TRANSMISSION BY FACSIMILE

I hereby certify that this correspondence is being transmitted by facsimile to the Patent and Trademark Office on the date indicated below.

May 3, 2006
Date of Transmission

Signature

Michelle George
Typed or Printed Name of Person Signing Certificate

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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MAY 0 5 2006

OFFICE OF PETITIONS

In re Application of	:	
Fritz H. Bach, et al.	:	
Application No. 10/177,930	:	ON PETITION
Filed: June 21, 2002	:	
Attorney Docket No. 13681-002001	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 3, 2006, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 7, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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 1651 for further processing of the request for continued examination under 37 CFR 1.114 filed May 3, 2006.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: TODD E. GARCIA, PH.D.
FISH & RICHARDSON P.C.
225 FRANKLIN STREET
BOSTON, MA 02110

10177932

RJ

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.: 6710158

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. 6,710,158 Patented: March 23, 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)
Carl Steven Nichols, Waxhaw, NC (US)
Tony Clifford Moore, Charlotte, NC (US)
Sharon Sue Griffith, Charlotte, NC (US)

Vasu Jagannathan
Supervisory Patent Examiner
Art Unit 1714

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

Klarquist Sparkman LLP
Suite 1600
One World Trade Center
121 S. W. Salmon Street
Portland, OR 97204

COPY MAILED

APR 0 1 2003

OFFICE OF PETITIONS

In re Application of :
Cornel Danciu, et al. :
Application No. 10/177,970 : ON PETITION
Filed: June 21, 2002 :
Attorney Docket No. 2623-62973 :

This is in response to the petition under 37 CFR 1.47(a), filed November 4, 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 application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

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

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

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

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Brian Good
1830 Willow Creek Circle
Eugene, OR 97402

COPY MAILED

APR 0 1 2003

OFFICE OF PETITIONS

In re Application of
Cornel Danciu; Thomas Abels; and Brian Good
Application No. 10/177,970
Filed: June 21, 2002
For: SHIELDING ASSEMBLY FOR SEMICONDUCTOR MANUFACTURING APPARATUS AND METHOD OF USING THE SAME

Dear Mr. Good:

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

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

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

Frances Hicks

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

cc: Klarquist Sparkman, LLP
Suite 1600
One World Trade Center
121 S. W. Salmon Street
Portland, OR 97204

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

MAR 31 2009

OFFICE OF PETITIONS

In re Application of	:	
Yoshiomi Fujiwara, et. al.	:	
Application No. 10/177,972	:	ON PETITION
Filed: June 20, 2002	:	
Attorney Docket No. F-7447	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 19, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a response to the non-final Office action mailed September 13, 2007. A Notice of Abandonment was mailed on April 4, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application; (2) the petition fee of 1,620; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 12/011,372.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK, NY 10022-2585

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AUG 20 2007

OFFICE OF PETITIONS

In re Application of

Harel Dahari

Application No. 10/177,973

Filed: June 20, 2002

Attorney Docket No. 3339/Y &Z

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 15, 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 Office action mailed July 28, 2005, which set a shortened period for reply of one (1) month. No extensions of time were obtained within the allowable period and no response was received. Accordingly, the application became abandoned on August 29, 2005. A Notice of Abandonment was mailed on March 21, 2006.

The amendment filed March 15, 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.

The Revocation and Power of Attorney, filed March 15, 2006, is noted, but cannot be entered at this juncture because it is signed by the assignee, but is not accompanied by a certificate under 37 CFR 3.73(b). A courtesy copy of this decision is being mailed to the address cited on the petition. All future correspondence will be mailed solely to the address of record until appropriate written instructions to the contrary are received.

The application is being forwarded to Technology Center 2600, GAU 2642 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

Cc:
Paul D. Bianco
21355 East Dixie Highway
Suite 115
Miami, Florida 33180

UNITED STATES PATENT AND TRADEMARK OFFICE

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

IBM RP-RPS
SAWYER LAW GROUP LLP
2465 E. BAYSHORE ROAD, SUITE NO. 406
PALO ALTO CA 94303

MAILED

APR 01 2009

OFFICE OF PETITIONS

In re Application of	:	
Hoblit, Robert S.	:	
Application No. 10/177,978	:	ON PETITION
Filed: June 21, 2002	:	
Attorney Docket No. RPS920010194US1/2379P	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 30, 2008, to revive the above-identified application.

The petition is **GRANTED**.

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

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

This matter is being referred to Technology Center AU 3622 for processing of the RCE under 37 CFR 1.114 filed concurrently with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJr.: 09-02

Paper 4

INTERVET INC
405 STATE STREET
PO BOX 318
MILLSBORO DE 19966

COPY MAILED

SEP 1 6 2002

OFFICE OF PETITIONS

In re application of
Leysen, et al.
Application No. 10/177,989 :
Filed: 21 June, 2002 :
Attorney Docket No.: O 98384 US D1 :

ON PETITION

This is a decision on the petition filed (with authorization for the applicable fee) on 12 August, 2002, under the provisions of 37 C.F.R. §1.53 (e)[1] to accord a filing date of 21 June, 2002, to page 7 of the specification.

Alternatively, should the petition not be granted, Petitioner requests that the filing date of 21 June, 2002, be maintained and page 7 of the specification not be entered.

The petition is **DISMISSED**.[2]

The record indicates that:

- the instant application was filed on 21 June, 2002, and page 7 of the specification was not included with other items of the application;

---

[1] The regulation at 37 C.F.R. §1.53(e) provide:

§ 1.53 Application number, filing date, and completion of application.

* * *

(e) *Failure to meet filing date requirements.*

(1) If an application deposited under paragraph (b), (c), or (d) of this section does not meet the requirements of such paragraph to be entitled to a filing date, applicant will be so notified, if a correspondence address has been provided, and given a time period within which to correct the filing error.

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

(3) If an applicant is notified of a filing error pursuant to paragraph (e)(1) of this section, but fails to correct the filing error within the given time period or otherwise timely (§ 1.181(f)) take action pursuant to this paragraph, proceedings in the application will be considered terminated. Where proceedings in an application are terminated pursuant to this paragraph, the application may be disposed of, and any filing fees, less the handling fee set forth in § 1.21(n), will be refunded.

* * *

[2] Pursuant to Petitioner's authorization, the petition fee ($130.00) is charged to Deposit Account 02-2334.

- a Notice of Omitted Items was mailed on 22 July, 2002, stating that page 7 of the specification was not filed contemporaneously with the application;
- the Notice also set forth therein the non-extendable two- (2-) month deadline within which Applicant might petition for incorporation of the omitted items into the application with the concurrent effect of accepting that petition date as the new filing date of the application;
- the instant petition was filed in response on 12 August, 2002, including therewith page 7 of the specification.

Petitioner submits with the petition, *inter alia*, what are described as true copies of:

- pages 1 through 9 of the specification for the instant application;
- the stamped postcard receipt (dated 21 June, 2002) for the instant application; and
- the transmittal letter for the instant application.

Notably:

- although the application transmittal letter submitted on 21 June, 2002, indicates that "Specification Total Pages 9" of specification, claims and abstract accompanied the application,
- the copy of the postcard receipt card stamped as received by the Office on 21 June, 2002, and submitted by Petitioner with the petition does not list any statement of the number of pages of specification, claims and abstract submitted with the application.

Therefore, contrary to the assertion at pages 1 through 3 of the petition, the stamped receipt card does not confirm that the Office acknowledged receipt of page 7 of the application. Rather, the stamped receipt card confirms that the Office acknowledged receipt of an application containing an unstated number pages.

A return postcard receipt serves as *prima facie* evidence that the identified papers were or were not received by the Office. MPEP §503.[3]

---

[3] MPEP § 503 provides in pertinent part as follows:

[T]he postcard receipt will not serve as *prima facie* evidence of receipt of papers which are not adequately itemized...Instead, each separate component, e.g., the number of pages of specification, number of claims (nonprovisional applications), number of sheets of drawings, cover sheet (provisional applications), etc. should be itemized on the postcard receipt...A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

While the Office does not doubt that the specification and claim(s) were prepared for submittal on or about 21 June, 2002, the mere fact that they were prepared and ready for mailing at Counsel's office does not necessarily mean that they were included with the application papers filed with the Office on 21 June, 2002.[4]

Accordingly, the Office cannot grant a 21 June, 2002, filing date for page 7 of the specification of the instant application and the petition is **dismissed**.

To avoid delays in the examination of the application, an amendment renumbering the pages in consecutive order and canceling any incomplete sentences and/or items on pages 6 and 8 should be filed prior to the first Office action.

The application is being returned to Technology Center 1600 with the presently accorded fling date of 21 June, 2002, for examination in due course.

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

John J. Gillon, Jr.
Senior Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[4] MPEP § 513 provides in pertinent part as follows:

* * *

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 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

COPY MAILED
SEP 23 2008

In re Application of	:	
Todd K. Whitehurst, et al.	:	
Application No. 10/178,010	:	DECISION ON PETITION
Filed: June 20, 2002	:	TO WITHDRAW
Attorney Docket No. 23845-006001/05-00505-01	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 11, 2008.

The request is **NOT APPROVED**.

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

The request to withdraw less than all attorneys appointed by customer number 20985 cannot be approved. The addition and/or deletion of a practitioner from the list of practitioners associated with a Customer Number should be made by submitting a "Request for Customer Number Data Change" (PTO/SB/124) which will result in the addition or deletion of such practitioner from the list of persons authorized to represent any applicant or assignee of the entire interest who appointed all of the practitioners associated with such Customer Number. See MPEP 403 Section I. Customer Number Practice.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED
SEP 23 2008

In re Application of	:	
Todd K. Whitehurst, et al.	:	
Application No. 10/178,011	:	DECISION ON PETITION
Filed: June 20, 2002	:	TO WITHDRAW
Attorney Docket No. 23845-009001	:	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 14, 2008.

The request is **NOT APPROVED**.

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

The request to withdraw less than all attorneys appointed by customer number 26202 cannot be approved. The addition and/or deletion of a practitioner from the list of practitioners associated with a Customer Number should be made by submitting a "Request for Customer Number Data Change" (PTO/SB/124) which will result in the addition or deletion of such practitioner from the list of persons authorized to represent any applicant or assignee of the entire interest who appointed all of the practitioners associated with such Customer Number. See MPEP 403 Section I. Customer Number Practice.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05/24/06

TO SPE OF : ART UNIT 2173

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/178026 Patent No.: **6915492**

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

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

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

Angela Green

Certificates of Correction Branch

703-308-9390 ext. 123

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: NONE

JOHN CABECA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

SPE

2173

Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/28/06

TO SPE OF : ART UNIT 2857

SUBJECT : Request for Certificate of Correction on Patent No.: 10/178034 6801877

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

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Angela Green
Certificates of Correction Branch
Tel. No. 703-305-9380 ext. 123

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

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

Comments:

The change to the Abstract does not apply because the location of what the Applicant believes is an error is on pg. 23, line 20 which is the original Abstract that was replaced by the Abstract found in the Amendment of 7-30-03 (see spec. amendments in this reply) because the original Abstract was greater than 150 words in length.

MARC S. HOFF
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800
SPE

2857
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090824

DATE : August 24, 2009

TO SPE OF : ART UNIT 3744

SUBJECT : Request for Certificate of Correction on Patent No.: 6789605

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

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

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

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

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

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

Comments:

/FRANTZ F JULES/
Supervisory Patent Examiner.Art Unit 3744

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

WEINGARTEN, SCHURGIN, GAGNEBIN & LEBOVICI LLP
TEN POST OFFICE SQUARE
BOSTON, MA 02109

Mail Date: 04/21/2010

Applicant	: Jason T. Motz	: DECISION ON REQUEST FOR
Patent Number	: 7647092	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/178,062	: 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 **1066** 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 JC106
SEP 1 6 2002
PATENT & TRADEMARK OFFICE

#3 MP
$

PATENT
81868.0055

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Hiromitsu TAKEI

Serial No: 10/178,065

Filed: June 19, 2002

For: MOTOR WITH CORE AND MOTOR CORE

Art Unit: 2834

Examiner: Not assigned

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:
Commissioner for Patents
Washington D.C. 20231, on
September 10, 2002
Date of Deposit
Gary Chernyavsky
Name
9/10/02
Signature Date

RESPONSE TO NOTICE TO FILE MISSING PARTS OF APPLICATION

Box MISSING PARTS
Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

In response to the "Notice to File Missing Parts of Application, Filing Date Granted," dated August 1, 2002, response to which is due October 1, 2002, enclosed are the following:

☒ A copy of the "Notice to File Missing Parts of Application Filing Date Granted."

☒ A "Declaration and Power of Attorney" executed by the inventor(s).

☒ A check in the amount of $824.00 in payment of the filing fee.

☒ A check in the amount of $130.00 to cover the surcharge for late filing of the Declaration.

The Commissioner is authorized to charge any underpayment to our Deposit Account No. 50-1314. A copy of this letter is enclosed.

Respectfully submitted,
Date: September 10, 2002

By:
Anthony J. Orler
Registration No. 41,232
Attorney for Applicant(s)

HOGAN & HARTSON L.L.P.
500 South Grand Avenue, Suite 1900
Los Angeles, California 90071
Phone: 213-337-6700
Fax: 213-337-6701

OIPE 106
SEP 16 2002
PATENT & TRADEMARK OFFICE

H2

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
10/178,065	06/19/2002	Hiromitsu Takei	

CONFIRMATION NO. 1770

FORMALITIES LETTER

OC000000008551364

000026021
HOGAN & HARTSON L.L.P.
500 S. GRAND AVENUE
SUITE 1900
LOS ANGELES, CA 90071-2611

Date Mailed: 08/01/2002

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

09/18/2002 DTESSEM1 00000080 10178065

01 FC:101	740.00 OP
02 FC:102	84.00 OP
03 FC:105	130.00 OP

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.

- Additional claim fees of $**84** as a non-small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is $**954** for a Large Entity

[redacted]

- **$740** Statutory basic filing fee.
- **$130** Late oath or declaration Surcharge.
- Total additional claim fee(s) for this application is **$84**
  - **$84** for **1** independent claims over 3.

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

Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Russell H. Fish
5400 Preston Oaks Road, Apt. 1112
Dallas TX 78716

COPY MAILED

MAR 19 2007

OFFICE OF PETITIONS

In re Application of
Russell Fish
Application No. 10/178,075
Filed: June 21, 2002
Attorney Docket No.:52803-4

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 18, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to a Restriction Requirement mailed October 3, 2005. The Office Action set a one (1) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on November 4, 2005. A Notice of Abandonment was mailed on June 19, 2006.

This petition is hereby **GRANTED**.

The Office hereby acknowledges the receipt of the Response to the Restriction Requirement submitted with the instant petition.

This application is being forwarded to Technology Center 2100 for further processing.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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DORSEY & WHITNEY
C/O BRADLEY J. SWENSON
51 NORTH BROADWAY
SUITE 402, DAKOTA CENTER
FARGO, ND 58107-1344

COPY MAILED

APR 0 6 2004

OFFICE OF PETITIONS

In re Application of :
Robert G. Breukelman et al :
Application No. 10/178,077 :
Filed: June 20, 2002 :
Attorney Docket No. H565.12-0001 :

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed March 2, 2004, 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. Robert G. Breukelman

2. Gerald D. Hartford Jr.

A corrected filing receipt with the desired order of inventorship is enclosed.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685.

This application file is being referred to Technology Center AU 3643.

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

Enclosure: Corrected Filing Receipt

01/21/05 3/8/05

APPROVED

1714

OIPE JC45
JAN 19 2005
PATENT & TRADEMARK OFFICE

PATENT
Attorney Docket No. 2109/US
Express Mail No. EV 423 776 915 US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	Confirmation No.: 1714
Robert G. BREUKELMAN	Group Art Unit: 3643
Appln. No.: 10/178,077	Examiner: Price, Richard Thomas Jr.
Filed: June 20, 2002	
For: LIVESTOCK PROCESSING FACILITY	

CERTIFICATE OF MAILING BY EXPRESS MAIL

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

Sir:

The undersigned hereby certifies that the enclosed

1. Request for Withdrawal As Attorney of Record (2 pages);
2. Exhibit A – Letter to Bob Breukelman dated January 19, 2005 (2 pages);
3. Certificate of Mailing by Express Mail (1 page); and
4. Return Card,

relating to the above application, were deposited under 37 C.F.R. §1.10 as "Express Mail," Mailing Label No. EV 423 776 915 US with the United States Postal Service, addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 19th day of January, 2005.

January 19, 2005

CHARLES R. MATSON
Mailer

Signature of Mailer
DORSEY & WHITNEY LLP
USPTO Customer No. 20686

EV423776915US

PATENT
Attorney Docket No. 13022.00 (nka 2109/US)
Express Mail Label No. EV 423 776 915US

OIPE JC45
JAN 19 2005
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Applicant	: Robert G. Breukelman	
Appln. No.	: 10/178,077	Confirmation No: 1714
Filed	: June 20, 2002	Group Art Unit: 3643
Title	: LIVESTOCK PROCESSING FACILITY	Examiner: Price, Richard Thomas Jr.

REQUEST FOR WITHDRAWAL AS ATTORNEY OF RECORD
(37 C.F.R. § 10.40)

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

Sir:

Attorneys for the Applicant hereby apply to withdraw as attorneys or agents for the above-identified application.

This request for withdrawal is being filed pursuant to 37 C.F.R. § 10.40 and contains the following:

(1) Specifically, withdrawal is requested because the petitioner's client has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time (37 C.F.R. § 10.40(c)(1)(vi)).

(2) Attorneys hereby state that they have given due notice to the Applicant of the withdrawal from employment as evidenced by the letter sent to Applicant on January 19, 2005, attached hereto as **Exhibit A**.

(3) Attorneys hereby state that they have delivered to the Applicant all papers and property in the attorneys' file concerning the prosecution of the application (see Exhibit A).

(4) Attorneys notified Applicant of any responses that were due and the time frame within which applicant must respond (see Exhibit A); and

(5) Applicant was given notice of Attorneys' withdrawal from employment at least two months prior to expiration of a response period (see Exhibit A).

The correspondence address is affected by this withdrawal. The present mailing address for Applicant is:

Mr. Robert G. Breukelman
Breukelman & Busch Inc.
Livestock Exchange Building
803 E. Rice Street
Sioux Falls, SD 57103

The undersigned is signing this Request for Withdrawal on behalf of Dorsey & Whitney LLP, USPTO Customer No. 20686, the attorneys of record. It is believed no fees or further petitions are required with this filing. Should any such fees or petitions be necessary, however, please consider this a request therefor and authorization to charge Deposit Account No. 04-1415 accordingly.

The Office is hereby invited to telephone the undersigned if doing so will expedite the granting of this Request.

Dated: Jan 19, 2005

Respectfully submitted,

Lee R. Osman

Lee R. Osman, Registration No. 38,260
Attorney for Applicant
USPTO Customer No. 20686

DORSEY & WHITNEY LLP
370 Seventeenth Street, Suite 4700
Denver, Colorado 80202-5647
Tel: 303-629-3400
Fax: 303-629-3450

4825-2325-4016\1 1/19/2005 2:21 PM

DORSEY
DORSEY & WHITNEY LLP

EXHIBIT A

LEE R. OSMAN
(303) 629-3434
FAX 303-629-3450
osman.lee@dorsey.com

January 19, 2005

SENT VIA COURIER

Bob Breukelman
Breukelman & Busch Inc.
Livestock Exchange Building
803 E. Rice Street
Sioux Falls, SD 57103

FOR YOUR INFORMATION
NO RESPONSE REQUIRED

Re: U.S. Patent Applications - Withdrawal from Representation

Title:	LIVESTOCK PROCESSING FACILITY
Application. Nos.:	Parent Application No. 10/178,077 and Continuation Application No. 11/023,960
Filing Dates:	June 20, 2002 and December 22, 2004
Our Docket. Nos.:	471282-2 / 2109/US and 2109/US/2

Dear Bob:

This letter is to notify you that Dorsey & Whitney, LLP will no longer be representing you in prosecution of the above-referenced patent applications. As I have stated in past correspondence with you, we have not been paid our fees nor reimbursed for the costs we have incurred on your behalf in relation to prosecution of the above-referenced patent application number 10/178,077. We have contacted Gerald Hartford, and he indicated that he has no responsibility for the application and told us to look to you for payment.

As my past letters and phone messages to you requesting instructions have stated, a response to an outstanding Office action in Application No. 10/178,077 was due on December 22, 2004. Because you did not respond to our requests for instructions, we did not file a response to the Office action. As such, the application was deemed abandoned by the USPTO on December 23, 2004. A copy of a Notice of Abandonment from the USPTO is enclosed along with copies of prosecution documents and general correspondence related to the prosecution of patent application number 10/178,077.

In order to preserve your rights, however, we filed a Notification of Filing Continuation Patent Application and Petition for Three-Month Extension of Time along with a continuation patent application with the USPTO on December 22, 2004, copies of which are enclosed herewith. The newly filed continuation patent application number 11/023,960 claims priority to application number 10/178,077 and was filed without filing fees. Upon receipt of the application, the USPTO will mail a Notice to File Missing Parts requiring payment of the filing fees. A response to the Notice to File Missing Parts will be due 6 months from the mailing date of the Notice to File Missing Parts from the USPTO. In the event that the Notice to File Missing Parts is sent to Dorsey & Whitney, we will forward it to you.

Also, please find enclosed a copy of a Request for Withdrawal as Attorney of Record filed with the United States Patent and Trademark Office (USPTO) for the above-referenced patent applications. Once the Request for Withdrawal as Attorney of Record is approved by the USPTO, future correspondence relating to the above-referenced patent applications from the USPTO will be sent directly to you at the above address. In the event that any correspondence from the USPTO is sent to Dorsey & Whitney, we will forward it to you.

If you have any questions please feel free to contact me.

Best regards,

Lee R. Osman

LRO/crm
Enclosures

ccwoe: Gerald D. Hartford, Jr., P.E.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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MAY 12 2004

Paper No. 8

In re Application of
Eric P. Plourde
Application No. 10/178,127
Filed: June 24, 2002
Attorney Docket No. 769-327

DECISION ON PETITION

This is a decision on the petition filed by facsimile transmission on March 24, 2004 by which petitioner requests withdrawal of the examiner's holding that this application stands abandoned for failure to file a proper and timely reply to the final Office action dated August 8, 203. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioner alleges that this application is not abandoned because a timely proper reply to the Office letter in question was in fact filed on November 12, 2004. Petitioner supports this allegation by furnishing a copy of the reply, which has affixed thereto a 37 CFR. 1.8(a) certificate of mailing dated November 10, 2003, date within the period set for filing a reply to the Office letter in question. Pursuant to 37 CFR 1.8(b), it is clear that the reply was in fact timely filed. It is noted that petitioner has also furnished a copy of a receipt for the filing of the reply which shows that the reply was in fact received in the Office on November 12, 2003. Based upon 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 Head Supervisory Applications Examiner for entry of the reply filed on November 12, 2003, certificate of mailing date November 10, 2003. Thereafter, the application will be forwarded to the examiner for action on the reply.

PETITION GRANTED.

E. Rollins Cross, Director
Technology Center 3700

Gerald Levy, Esq.
Pitney, Hardin, Kipp & Szuch LLP
685 Third Av enue
New York, NY 10017-4024

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

Anderson Gorecki & Manaras LLP
33 NAGOG PARK
ACTON, MA 01720

Mail Date: 04/20/2010

Applicant	: Abdulkadev Barbir	: DECISION ON REQUEST FOR
Patent Number	: 7610332	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/178,131	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/24/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **954** 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

MAY 19 2005

Katten Muchin Zavis Rosenman
575 Madison Avenue
New York, NY 10022-2585

In re Application of Steven Abdelqadar Serial No. : 10/178,142 Filed : June 24, 2002 For : LED Curing Light	: DECISION ON PETITION : TO WITHDRAW : HOLDING OF : ABANDONMENT :

This is a decision on a request filed October 19, 2004, to review the holding of abandonment mailed October 4, 2004, for failure to respond to the Office action mailed March 25, 2004. There is no fee required for this petition.

In support of the request, petitioner has submitted a copy of a response, a request for a three-month extension of time, and a copy of a PTO stamped receipt dated September 24, 2004 as evidence of the timely receipt of a response. It is noted that the original communication has been located and matched with the instant file. Any inconvenience is deeply regretted.

In view of the above, the Notice of Abandonment mailed October 4, 2004, is in error and is hereby vacated. The holding of abandonment is withdrawn. Upon the mailing of this decision, the application will be forwarded to the Examiner via the Legal Instruments Examiner for entry and consideration of the response filed September 24, 2004.

Summary: Holding of Abandonment Withdrawn.

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

ak/05/06/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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

March 2, 2004

Felipe J. Farley
Michelin Tire Corporation
Intellectual Property Department
P. O. Box 2026
Greenville, SC 29602

In re application of:
Cordonnier, et al DECISION ON PETITION
Serial No.: 10/178,148
Filed: June 24, 2002
For: MULTI-LAYER STEEL CABLE FOR A TIRE CARCASS

This is a decision on the petition received by fax on November 7, 2003, to withdraw the holding of abandonment in the above-identified application.

The Notice to File Missing Parts of Nonprovisional Application was mailed on July 30, 2002. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned October 1, 2002.

On November 7, 2003, the office received a communication from the attorney of record. Enclosed was an acknowledgement that the attorney never received the Notice to File Missing Parts of Nonprovisional Application mailed July 30, 2002.

The evidence submitted is sufficient to establish that the petitioners never received the Notice to File Missing Parts of Nonprovisional Application mailed July 30, 2002.

The petition is hereby Granted.

The application has been completed for release to Technology Center 1733.

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

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

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ASHOK TANKHA
36 GREENLEIGH DRIVE
SEWELL, NJ 08080

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OCT 14 2008

OFFICE OF PETITIONS

In re Application of :
Dino Makropoulos :
Application No. 10/178,156 :
Filed: June 24, 2002 :
Attorney Docket No. 4877-103 US :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 14, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 18, 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 July 19, 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 3724 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

December 7, 2006

Kevin W. Jakel
Kaye Scholer, LLP
901 Fifteenth Street, NW
Washington, DC 20005

Patent No.: 7133952 B2
Application No.: 10/178158
Inventor(s): **Peter W. Grzybowski, et al.**
Issued: **November 7, 2006**
Title: **METHOD AND APPARATUS FOR A WEARABLE COMPUTER**

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-0025 ATTN: Office of Petitions

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

Virginia Tolbert
For Cecelia Newman
Decisions & Certificate of Correction Branch
(703) 305-8309 or (703) **308-9390 ext 113**

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KAYE SCHOLER LLP
901 FIFTEENTH STREET NW
WASHINGTON, DC 20005

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SEP 26 2007

OFFICE OF PETITIONS

In re Patent No. 7,133,952 :
Issue Date: November 7, 2006 :
Application No. 10/178,158 : DECISION ON PETITION
Filed: June 24, 2002 :
Attorney Docket No. 04294.1008 :

This is a decision on the petition under 37 CFR 3.81(b), filed December 19, 2006, to include 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 patent file is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STEPHEN E. FELDMAN, P C.
12 EAST 41ST STREET, 7TH FLOOR
NEW YORK, NY 10017

COPY MAILED

JUN 22 2007

OFFICE OF PETITIONS

DECISION ON PETITION
UNDER 37 CFR 1.137(B)

In re Application of
RHEINSTEIN
Application No : 10/178,167
Filing Date: June 24, 2002
Attorney Docket No.: (none)

This is a decision on the petition under 37 CFR 1 137(b), filed April 2, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed August 29, 2006, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on November 30, 2006.

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

This application is being referred to the Office of Publications

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3303.

Bryan Lin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FEB 27 2004

Director's Office
Group 3700

The Law Offices of John D. Gugliotta
2002 Delaware Building
137 Main Street
Akron, OH 44308

Paper No. 9

In re Application of
Cynthia Jones-Lowe
Application No.: 10/178,173
Filed: August 19, 1999
For: Fuel Control Valve

DECISION ON PETITION

This is a decision on petitioner's request filed 12/15/2003, requesting withdrawal of the holding of abandonment of the above-identified application because applicants' response was not received by the U.S.P.T.O.

The petition is granted.

In support of the request, petitioner has provided a showing of the amendment timely filed with a valid certificate of mailing in accordance with Official Gazette Notice 1156 O.G. 53 (November 16, 1993). MPEP 711.03(c)II.

In view of the above, the Notice of Abandonment mailed January 8,2004 is in error and is hereby vacated. The holding of abandonment is withdrawn.

The Office communication will be remailed and the shortened statutory period that was originally set forth in the Office communication shall be restarted to run from the mail date of the newly supplied Office action or notice.

Summary: Holding of Abandonment Withdrawn.

Richard A. Bertsch, Director
Groups 3740 & 3750
Phone: (703) 308-0975
Fax: (703) 308-7764
DE

PET DEC

OIPE JC79
SEP 2 2 2004
PATENT & TRADEMARK OFFICE

Atty. Dkt. No. 057215-0108

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Robert G. Bayless

Title: MOISTURE BARRIER RESINS

Appl. No.: 10/178,179

Filing Date: 06/21/2002

Examiner: Hoa T. Le

Art Unit: 1773

JAN 1 9 2005

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700

PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102(c)

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

Sir:

Applicant hereby petitions the Patent and Trademark Office under 37 C.F.R. §1.102(c) to make special the instant application. It is believed that no fee is due for the instant petition, however, should a fee be required, the PTO is authorized to charge the Deposit Account No. 19-0741. This petition is submitted on the grounds that one of the present applicants is 65 years of age or more as set forth in 37 C.F.R. § 1.102(c). The basis for the petition is to obtain special status for this application so that it receives expedited prosecution.

MPEP § 708.02 IV provides that "[a]n application may be made special upon filing a petition including any evidence showing that the applicant is 65 years of age, or more, such as a birth certificate or applicant's statement. No fee is required for such a petition."

In the present case, Robert G. Bayless is greater than 65 years of age. A signed statement by Robert G. Bayless in support of this petition is being provided concurrently herewith.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SEYFARTH SHAW, LLP
131 S. DEARBORN ST., SUITE2400
CHICAGO, IL 60603-5803

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SEP 2 0 2007

OFFICE OF PETITIONS

In re Application of
Mikiko Hojo, et. al.
Application No. 10/178,189
Filed: June 24, 2002
Attorney Docket No. TJK/243

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on September 25, 2006, to revive the above-identified application. The delay in responding is regretted.

The application became abandoned for failure to respond to the non-final Office action mailed February 18, 2005. A Notice of Abandonment was mailed on September 21, 2005.

It is not apparent whether the person signing the present 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 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.

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 and drawings; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 1711, for review of the amendment filed with the present petition.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DELPHI TECHNOLOGIES, INC.
M/C 480-410-202
PO BOX 5052
TROY MI 48007

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JAN 0 5 2007

OFFICE OF PETITIONS

In re Application of
Karl J. Haltiner Jr. et al :
Application No. 10/178,282 : ON PETITION
Filed: June 24, 2002 :
Attorney Docket No. 89190.078302/DP-308128 :

This is a decision on the petition filed December 22, 2006, requesting withdrawal of the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED as moot.**

The petition was filed on December 22, 2006, which is after the application issued into Patent No. 7,147,953 on December 12, 2006. Petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue.** Withdrawal of an application from issue after payment of the issue fee may not be effective to avoid publication of application information.

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

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Weaver Austin Villeneuve & Sampson LLP - IGT
Attn: IGT
P.O. Box 70250
Oakland, CA 94612-0250

Mail Date: 04/20/2010

Applicant	: William Wells	: DECISION ON REQUEST FOR
Patent Number	: 7628701	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/178,283	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/24/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **351** 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 COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

Paper No. 6

SUGHRUE MION, ZINN,
MACPEAK & SEAS, PLLC
2100 PENNSYLVANIA AVENUE, NW
WASHINGTON, DC 20037-3213

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MAY 27 2003

OFFICE OF PETITIONS

In re Application of
Jurd et al.
Application No. 10/178,299
Filed: June 25, 2002
Attorney Docket No. Q69974

: LETTER HOLDING DECISION
: IN ABEYANCE; NOTICE OF
: ABANDONMENT

The Office acknowledges receipt of the petition under 37 CFR 1.47(a), filed by facsimile on February 25, 2003. However, as explained below, the application had become abandoned on September 25, 2002.

On July 24, 2002, the Office of Initial Patent Examination (OIPE) mailed a Notice to File Missing Parts of Nonprovisional Application ("July 24, 2002 Notice"), stating that the following items were missing: an oath/declaration; and a set of claims commencing on a separate sheet as required by 37 CFR 1.75(h). Applicants were given an extendable 2-month period to submit the missing items.[1]

As an attempted partial response to the July 24, 2002 Notice, the instant petition, accompanied by a request for a 5-month extension of time and the extension-of-time fee, was filed on February 25, 2003. OIPE, unaware of the status of the application, mailed a "Notice of Incomplete Reply (Nonprovisional)" on April 1, 2003, indicating that the required replacement claims had not been filed, and that the reply period for submitting the replacement claims remained **as set forth in the July 24, 2002 Notice.**

The Office notes that:

(1) Both of the above missing items were submitted after the maximum reply period:[2] the oath/declaration in conjunction with the instant §1.47(a) petition was filed on February 25, 2003; the replacement claims, commencing on a separate sheet of paper, were not filed until April 8, 2003.

(2) An extension of time under 37 CFR 1.136 may only be obtained prior to the

---

[1] The 2-month period for responding to a Notice to File Missing Parts is not identified on the Notice as a statutory period subject to 35 U.S.C. 133. Thus, extensions under 37 CFR 1.136(a) of up to 5 months, i.e., **through 2/24/03 at the maximum**, are permitted. See MPEP 710.02(d) (Rev.1, Feb. 2003).

[2] See *id.*

expiration of the maximum extendable reply period,[3] i.e., **on or before February 24, 2003** in the instant case. Since the request for a 5-month extension of time was filed on February 25, 2003, rather than on or before February 24, 2003, that request for extension of time is not appropriate, rendering the application abandoned as of September 25, 2002.[4]

(3) A decision on the §1.47(a) petition is being held in abeyance until the application is revived.[5]

A petition under 37 CFR 1.137(b) to revive this application must be filed within **THIRTY (30) DAYS** of the mailing of this letter, and be accompanied by:

-the $1,300 petition fee;
-a statement that the entire delay in filing the missing items from the due date until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

The petition should be addressed as follows:

-by mail/by hand:	Commissioner for Patents, USPTO Attn: Office of Petitions Crystal Plaza Four, Suite CP4-3C23 2201 South Clark Place Arlington, VA 22202
-by fax:	(703) 308-6916 Attn: Office of Petitions

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

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[3] See In re Application of S., 8 U.S.P.Q.2d 1630, 1631 (Comm'r Pats. 1988).

[4] The 5-month extension-of-time fee ($1,970) charged to Deposit Account No. 19-4880 on 2/25/03 has been credited to the same account. .

[5] The petition asserts that the non-signing inventors could not be located after diligent efforts, but has not supplied any supporting evidence, e.g., evidence of: attempts to contact them by telephone or by mail to their last known addresses; efforts to locate them through name searches on the Internet, Lexis, etc. Also, the petition has not supplied any statement(s) of facts, signed by those who searched for the non-signing inventors and concluded that they could not be located, delineating the search efforts. **A general statement based on hearsay will not be accepted. See MPEP section 409.03(d) (Rev. 1 , Feb. 2003) for guidance.**

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 8

SUGHRUE MION, ZINN,
MACPEAK & SEAS, PLLC
2100 PENNSYLVANIA AVENUE, NW
WASHINGTON, DC 20037-3213

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JUL 1 8 2003

OFFICE OF PETITIONS

In re Application of
Jurd et al.
Application No. 10/178,299
Filed: June 25, 2002
Attorney Docket No. Q69974

ON PETITIONS

This decision concerns the February 25, 2003 petition under 37 CFR 1.47(a) and the June 26, 2003 petition under 37 CFR 1.137(b).

The petition under 37 CFR 1.47(a) is **DISMISSED.**
The petition under 37 CFR 1.137(b) is **DISMISSED.**

Background

The application was filed without an oath or declaration. On July 24, 2002, a Notice to File Missing Parts of Nonprovisional Application ("July 24, 2002 Notice") was mailed, setting forth an extendable 2-month period for submitting the missing items, i.e., an oath or declaration, and replacement claims commencing on a separate sheet of paper.

No reply was filed on or before February 24, 2003, and no extension of time under 37 CFR 1.136(a) was obtained. The application became abandoned on September 25, 2002.

Petition under 37 CFR 1.47(a)

Three inventors are named in this application: Charles-Henry Jurd ("Jurd"); Houmad Tighezza ("Tighezza"); and Abdelkrim Moulehiawy ("Moulehiawy"). The petition under 37 CFR 1.47(a) encloses a declaration signed by only Moulehiawy ("February 25, 2003 Declaration"), and request that Moulehiawy be allowed to file this application on behalf of himself, Jurd, and Tiguezza.

Moulehiawy may file this application on behalf of himself as well as Jurd and Tiguezza, provided that the petition includes a statement of facts, signed by a person with firsthand knowledge of the facts recited therein, establishing that a diligent effort had been made to locate Jurd and Tiguezza, and that notwithstanding such an effort, Jurd and Tiguezza could not be found.[1]

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[1] 37 CFR 1.47(a); MPEP section 409.03(d) INVENTOR CANNOT BE REACHED (Rev. 1, Feb. 2003).

The instant petition merely asserts that the whereabouts of Jurd and Tiguezza "remain unknown after diligent efforts to locate them" but has not supplied any statement of facts, delineating the search efforts for Jurd and Tiguezza, and signed by those who conducted the alleged searches and concluded that the two could not be located.[2] Consequently, the petition fails to meet the requirements of §1.47(a). The §1.47(a) petition is thus dismissed.

Petition under 37 CFR 1.137(b)

Under 37 CFR 1.137(b), a grantable petition to revive an abandoned application must be accompanied by: (1) **the required reply**,[3] 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 its due date until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) a terminal disclaimer and the accompanying fee, as required by 37 CFR 1.137(d), for a utility application filed before June 8, 1995.[4]

In the instant case, the cause of abandonment was non-filing of a proper oath/declaration and proper replacement claims on or before the set deadline. While the replacement claims were filed on April 8, 2003, the February 25, 2003 Declaration was not accepted, as discussed above. The petition to revive is thus dismissed for failing to meet the threshold requirement of 37 CFR 1.137(b).

Options

A renewed §1.137(b) petition (no fee) must be filed within **TWO MONTHS** of the mailing date of this decision,[5] and be accompanied by:

(1) -an oath/declaration, properly signed by all inventors, including Jurd and Tiguezza;[6] **or**,

-a renewed §1.47(a) petition (no fee) that includes appropriate statement(s) of facts as indicated above;

---

[2] See MPEP section 409.03(d) (Rev. 1 , Feb. 2003) for guidance.

[3] Generally, the required reply is the reply sufficient to have avoided abandonment had it been timely filed. In the instant case, the only outstanding item is a properly executed oath/declaration or at least one accepted under a granted §1.47 petition. See MPEP section 711.03(c)(III)(A) (Rev.1, Feb. 2003).

[4] Not applicable to this application.

[5] Extensions of time under 37 CFR 1.136(a) are permitted. However, intentionally delaying the filing of that petition may result in its denial.

[6] A declaration listing the invention and all of the inventors but signed only by Jurd and Tiguezza may be submitted to supplement the 2/25/03 Declaration.

(2) a statement that the entire delay in filing the required reply from its due date until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

The renewed petition(s) should be addressed as follows:

by mail/by hand: Commissioner for Patents, USPTO
Attn: Office of Petitions
Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

by fax: (703) 308-6916
Attn: Office of Petitions

Finally, the Office acknowledges receipt with the §1.137(b) petition of the $1,300 petition fee; and with the §1.47(a) petition of the $130 petition fee and the accompanying surcharge for lacking an acceptable oath/declaration upon filing of the application.

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
www.uspto.gov

Paper No. 10

SUGHRUE MION, ZINN,
MACPEAK & SEAS, PLLC
2100 PENNSYLVANIA AVENUE, NW
WASHINGTON, DC 20037-3213

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OFFICE OF PETITIONS

In re Application of
Jurd et al.
Application No. 10/178,299
Filed: June 25, 2002
Attorney Docket No. Q69974

: REQUEST FOR INFORMATION

The Office acknowledges receipt via facsimile on December 19, 2003 of the following document for the above-referenced application:

(1) Pages 1-4 of 8: Petition;

(2) Page 5 of 8: Declaration by Dr. Kristian Jauregui (not signed; apparently incomplete);

(3) Pages 6-7 of 8: Copies of mailing receipts for the 2 non-signing inventors;

(4) Page 8 of 8: Printout of e-mail from Assignee to Counsel, indicating refusal by the non-signing inventors to sign the application papers.

It is unclear whether page 2 of the Declaration ((2) above) was inadvertently not transmitted.

To aid the Office in properly rendering a decision on the renewed petition, a copy of Dr. Kristian Jauregui's declaration should be mailed within **THIRTY (30) DAYS** of the mailing date of this letter to:

Commissioner for Patents, USPTO
Attn: Office of Petitions
Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

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
www.uspto.gov

Charles-Henry Jurd
63 rue Lauriston
75016 Paris, France

COPY MAILED

MAR 0 4 2004

OFFICE OF PETITIONS

LETTER

In re Application of :
Jurd et al. :
Application No. 10/178,299 :
Filed: June 25, 2002 :
For: METHOD AND DEVICE FOR :
DETERMINING THE VOICE QUALITY :
DEGRADATION OF A SIGNAL :

Dear Mr. Jurd,

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

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

Requests for information regarding this application should be directed to the File Information Unit at (703) 308-2733. For information on how to order a copy of the application or a specific paper in the application, contact the Certification Division at (703) 308-9726 or 1-(800) 972-6382 (outside the Washington DC area). Telephone inquiries regarding this letter should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions
Office of the Commissioner for Patents

cc: David J. Cushing, Esq.
Sughrue, Mion, Zinn, MacPeak & Seas, PLLC
2100 Pennsylvania Avenue, NW
Washington, DC 20037-3213

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Houmad Tighezza
6 allee du Cedre
92290 Chatenay Malabry, France

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MAR 0 4 2004
OFFICE OF PETITIONS

In re Application of :
Jurd et al. :
Application No. 10/178,299 :
Filed: June 25, 2002 :
For: METHOD AND DEVICE FOR :
DETERMINING THE VOICE QUALITY :
DEGRADATION OF A SIGNAL :

LETTER

Dear Mr. Tighezza,

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

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

Requests for information regarding this application should be directed to the File Information Unit at (703) 308-2733. For information on how to order a copy of the application or a specific paper in the application, contact the Certification Division at (703) 308-9726 or 1-(800) 972-6382 (outside the Washington DC area). Telephone inquiries regarding this letter should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions
Office of the Commissioner for Patents

cc: David J. Cushing, Esq.
Sughrue, Mion, Zinn, MacPeak & Seas, PLLC
2100 Pennsylvania Avenue, NW
Washington, DC 20037-3213

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 12

SUGHRUE, MION, ZINN,
MACPEAK & SEAS, PLLC
2100 PENNSYLVANIA AVENUE, NW
WASHINGTON, DC 20037-3213

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MAR 0 4 2004

OFFICE OF PETITIONS

In re Application of
Jurd et al.
Application No. 10/178,299
Filed: June 25, 2002
Attorney Docket No. Q69974

: DECISION GRANTING PETITIONS
: AND ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This decision concerns the December 19, 2003 renewed petitions under 37 CFR 1.47(a) and 37 CFR 1.137(b).

The petition under 37 CFR 1.47(a) is **GRANTED.** Consequently, the petition under 37 CFR 1.137(b) is **GRANTED.**

Petition under 37 CFR 1.47(a)

The instant renewed petition, supplemented on February 25, 2004, indicates that a reasonably diligent effort was made, in vain, to secure the signatures of the non-signing inventors on the application declaration. The §1.47(a) petition is thus granted.

However, the "Declaration and Power of Attorney for Utility or Design Patent application (37 CFR 1.63)" signed by the available inventor and submitted on February 25, 2003 is defective, in that, it contains obsolete mailing addresses for the non-signing inventors. While this declaration is acceptable for granting the §1.47(a) petition, **a supplemental declaration curing the defects must be submitted before or with the response to the first Office action on the merits.**[1]

Petition under 37 CFR 1.137(b)

With the grant of the §1.47(a) petition, the §1.137(b) petition is also granted.

As provided in 37 CFR 1.47(c), the Office will forward notice of the filing of this application to the non-signing inventors at their last known addresses indicated in the petition:

Charles-Henry Jurd
63 rue Lauriston
75016 Paris, France

Houmad Tighezza
6 allee du Cedre
92290 Chatenay Malabry, France

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[1] 37 CFR 1.51(b)(2).

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 should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 17

BLAKE, CASSELS & GRAYDON LLP
COMMERCE COURT WEST
199 BAY STREET
TORONTO ON M5L 1A9 CA CANADA

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AUG 1 1 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Hokan S. Colting	:	
Application No. 10/178,345	:	
Filed: June 25, 2002	:	
Attorney Docket No. 51751/8	:	

This is a decision on the petition, filed August 9, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 24, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 3643 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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.

OIPE JC95
DEC 0 2 2003
PATENT & TRADEMARK OFFICE

ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS VA 20165

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BY: pdd 5/23/03

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OFFICE OF PETITIONS

In re Application of
Shunpei Yamazaki et al
Application No. 10/178,349
Filed: June 25, 2002
Attorney Docket No. 0756-7010

ON PETITION

This is a decision on the petition, filed May 16, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on March 14, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 2824 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

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Pillsbury Winthrop Shaw Pittman, LLP
PO Box 10500
McLean, Virginia 22102

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SEP 19 2007

OFFICE OF PETITIONS

In re Application of

Giardello, et al. :

Application No. 10/178,373

: DECISION ON PETITION

Filed: June 24, 2002

:

Attorney Docket No. P7748 14518

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

The petition is **GRANTED**.

The above-cited application became abandoned for failure to file a proper reply in a timely manner to the final Office action mailed August 24, 2004, which set a shortened statutory period for reply of three (3) months from its mailing date. A response was filed on February 7, 2005. An Advisory Action was mailed March 1, 2005, advising petitioner that the response of February 7, 2005, failed to place the application in condition for allowance. No further responses were filed within the allowable period. The application became abandoned on February 25, 2005. A Notice of Abandonment was mailed on May 6, 2005.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply form the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office.

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

The application is being forwarded to Technology Center 1700, GAU 1712 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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HARMAN - BRINKS HOFER CHICAGO
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

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OFFICE OF PETITIONS

In re Application of	:	
Brendon Stead, et al.	:	
Application No. 10/178,400	:	DECISION ON PETITION
Filed: June 24, 2002	:	TO WITHDRAW
Attorney Docket No. 11336-5 (P01026US)	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 15, 2009.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Harman – Brinks Hofer Chicago, Brinks, Hofer, Gilson & Lione has been revoked by the assignee of the patent application on July 6, 2009. 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. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: ROBERT P. HART, ESQ.
HARMAN INTERNATIONAL INDUSTRIES, INCORPORATED
8500 BALBOA BOULEVARD
NORTHBRIDGE, CA 91329

UNITED STATES
PATENT AND
TRADEMARK OFFICE

APR 9 2003

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

HARVEY B. JACOBSON, JR.
400 SEVENTH STREET, N.W.
WASHINGTON, D.C. 20004-2201

In re Application of	:	
Roy Fanti	:	DECISION ON PETITION
Serial No.: 10/178,408	:	
Filed: June 25, 2002	:	
For: Disposable Cover For Drainable Stoma	:	
Pouch	:	

This is in response to applicants' petition filed June 25, 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

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McDERMOTT, WILL & EMERY
28 State Street
Boston MA 02109

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SEP 2 3 2005

OFFICE OF PETITIONS

In re Application of :
Russell J. MACDONALD et al. :
Application No. 10/178,418 :
Filed: June 24, 2002 :
Attorney Docket No. 056246-0010 (IOLL-291CN) :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 25, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

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

The 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 February 22, 2005, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on May 23, 2005

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

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 22, 2005. 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). Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b). See the enclosed PTOL-303.

Furthermore, 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., 8USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the three-month extension of time submitted with the petition on July 27, 2005 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

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

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

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

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

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

Brian Hearn
Petitions Examiner
Office of Petitions

Encl.: PTOL-303

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Boston MA 02109

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OFFICE OF PETITIONS

In re Application of :
Russel J. MACDONALD et al. :
Application No. 10/178,418 :
Filed: June 24, 2002 :
Attorney Docket No. 056246-0010 (IOLL-291CN) :

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed November 25, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed February 22, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 23, 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, Request for Continued Examination, and the $790 filing fee; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office Action of February 22, 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 1713 for appropriate action on the concurrently filed amendment.

David Bucci
Petitions Examiner
Office of Petitions

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MICROSOFT CORPORATION
C/O LYON & HARR, LLP
300 ESPLANADE DRIVE
SUITE 800
OXNARD CA 93036

MAIL

MAR 16 2007

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application :
ZHANG, ZHENGYOU, et al :
Serial No.: **10/178,443** :
Filed: June 19, 2002 : DECISION ON PETITION
For: **SYSTEM AND METHOD FOR WHITEBOARD:**
AND AUDIO CAPTURE :

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed October 2, 2002, requesting acceptance of color drawings.

The petition requests that the color drawings identified in figure/s be accepted in lieu of black and white drawing

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) set 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 under 37 C.F.R. §1.84(a)(2) was not accompanied by 3(three) sets of the color drawings in questions.

The petition is **DENIED.**

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision and include correction of the deficiency outlined above. The application will be held in the Technology Center for two months to await any request for reconsideration of this decision.

Michael Hrabik
Special Program Examiner
Technology Center 2600
Communications

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

MICROSOFT CORPORATION
C/O LYON & HARR, LLP
300 ESPLANADE DRIVE
SUITE 800
OXNARD CA 93036

In re Application of
ZHANG, ZHENGYOU et al.
Serial No.: 10/178,443
Filed: June 19, 2002
For: **SYSTEM AND METHOD FOR WHITEBOARD AND AUDIO CAPTURE**

DECISION ON PETITION
ACCEPTANCE OF COLOR DRAWINGS

This is a decision on the Response to denial of petition pursuant to 37 C.F.R. § 1.84(a)(2), filed April 8, 2007, requesting acceptance of color drawings.

The petition requests that the color drawings, noted as figures 2, 4, 7, 9, 10, 15, and 18A-18D 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) set 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 petitioner directs attention to the evidence submitted with the Response to Notice of Allowance filed on January 27, 2007. Upon reviewing the evidence submitted, a copy of a post card receipt date stamped October 02, 2002. Also, the drawing images scanned with a document receipt date of October 02, 2002 reveal three sets of drawings were provided. Furthermore, upon further review of the original paper files, the three sets of color drawings have been located and have since been included with the current artifact folder.

Accordingly, Petition has satisfied the requirements of 37 C.F.R. §1.84(a)(2). The petition is **GRANTED**.

The application file will be forwarded to the Office of Publications.

Michael Horabik
Quality Assurance Specialist
Technology Center 2600 - Communications

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

PETER K. TRZYNA, ESQ.
P O BOX 7131
CHICAGO, IL 60680

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DEC 1 1 2002

OFFICE OF PETITIONS

In re Application of
David W. Parsons
Application No. 10/178,470
Filed: June 24, 2002
Attorney Docket No. Parsons-P1-02

DECISION ON PETITION

This is a decision on the "Petition and Response to Notice to File Corrected Papers," filed September 18, 2002, which is properly treated as a petition under § 1.53(e)(2)[1]. Petitioners request that the Office accord the above-identified application a filing date of June 24, 2002, with figures 4, 11, and 21 as a part of the original application disclosure.

Application papers in the above-identified application were filed on June 24, 2002. However, on July 18, 2002, the Office of Initial Patent Examination mailed applicant a "Notice to File Corrected Application Papers." Applicant was notified that the application papers had been accorded a filing date; however, figures 4, 11, and 21 described in the specification appeared to have been omitted.

In response, petitioner timely filed the instant petition, asserting that a complete set of drawings was filed on June 24, 2002, as shown by the postcard receipt stamped by the PTO to acknowledge receipt of the drawings. In addition, petitioner states that the drawings filed were on paper which is strong, flexible, white, smooth, non-shiny, durable, and in compliance with § 1.84. Accompanying the petition was a duplicate complete set of drawings, Figures 1-37, Sheets 1-35; and a copy of petitioner's return postcard receipt.

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

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[1] § 1.53(e) Failure to meet filing date requirements.
(1) If an application deposited under paragraph (b), (c), or (d) of this section does not meet the requirements of such paragraph to be entitled to a filing date, applicant will be so notified, if a correspondence address has been provided, and given a time period within which to correct the filing error.
(2) Any request for review of a notification pursuant to paragraph (e)(1) of this section, or a notification that the original application papers lack a portion of the specification or drawing(s), must be by way of a petition pursuant to this paragraph accompanied by the fee set forth in § 1.17(h). In the absence of a timely (§ 1.181(f)) petition pursuant to this paragraph, the filing date of an application in which the applicant was notified of a filing error pursuant to paragraph (e)(1) of this section will be the date the filing error is corrected.

petitioner's postcard receipt reveals that: 1) it was date stamped as received in the USPTO on June 24, 2002, and the papers submitted therewith were assigned application No. 10/178,470; 2) it specifically identifies the items being filed, including "35 Sheets of Drawings Figs. 1 to 37" and 3) it lacks any annotation of nonreceipt of any item denoted on the postcard. Thus, petitioner has shown that the items denoted, including the sheets of drawings, were filed on June 24, 2002.

Accordingly, the petition is **GRANTED**.

Given the basis for granting the petition, the petition fee although authorized will not be charged.

It is noted, however, that the "Notice to File Corrected Application Papers" was properly mailed and will not be withdrawn. The drawings as filed were not all electronically reproducible. Figure 2, in particular, did not appear to be made by a process which gave the characters therein satisfactory reproduction characteristics. Rather, figure 2 as filed contained what appeared to be handwritten nonuniform characters[2].

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

- further processing with a filing date of June 24, 2002, using the application papers received in the Office and presently accorded that date, and the 35 sheets of drawings resubmitted on petition filed September 18, 2002; and
- processing of the substitute drawings (Paper No. 4)(including a substitute Figure 2) timely filed in response to the "Notice to File Corrected Application Papers."

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.

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

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[2] § 1.84(l) Character of lines, numbers, and letters. All drawings must be made by a process which will give them satisfactory reproduction characteristics. Every line, number, and letter must be durable, clean, black (except for color drawings), sufficiently dense and dark, and uniformly thick and well-defined. The weight of all lines and letters must be heavy enough to permit adequate reproduction. This requirement applies to all lines however fine, to shading, and to lines representing cut surfaces in sectional views. Lines and strokes of different thicknesses may be used in the same drawing where different thicknesses have a different meaning.

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TC 3600

Peter K. Trzyna, Esq.
P.O. Box 7131
Chicago, IL 60680

Paper No. 8

In re application of
David W. Parsons
Application No. 10/178,470 :
Filed: June 24, 2002 :
For: METHOD FOR GENERATING A STUDY OF A :
BENEFIT PLAN FOR INTERNATIONAL :
EMPLOYEES OF AN OUTSOURCED CLIENT :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on November 12, 2003 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 in the above-identified application is not approved because the request does not comply with item B) above.

As to item B), there is no indication in the file record of Magner Financial, LLC being the assignee ("client"), and responsible for making decisions regarding prosecution of the application and payment of legal fees. Absent a 3.73(b) statement (e.g., a copy of an executed assignment) providing documentary evidence of a chain of title from the original owners to the assignee or a statement specifying where this evidence is recorded in the Office (e.g., reel and frame number), the "client" referred to in 37 CFR 10.40 is seen as being those individuals who conferred power upon the attorneys, in this case the inventor. Therefore, the stated reason for withdrawal that the "client", Magner Financial, LLC, has failed to meet conditions of a "Letter of Engagement" is improper because there is no evidence in the file record establishing Magner Financial, LLC as the assignee/"client". 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
(703) 308-3868

SNM/mjz: 2/10/04

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Paper No. 7

EDWARD LANGER
SHIBOLETH, YISRAELI, ROBERTS, ZISMAN & CO.
60TH FLOOR
350 FIFTH AVENUE
NEW YORK, NY 10118

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OFFICE OF PETITIONS

In re Application of	:	
Ofer Landau	:	
Application No. 10/178,512	:	ON PETITION
Filed: June 25, 2002	:	
Attorney Docket No. 1347	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 22, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Office action mailed July 15, 2003. Accordingly, this application became abandoned on October 16, 2003. A Notice of Abandonment was mailed on February 10, 2004.

The file is being forwarded to Technology Center 3700 for review of the amendment, filed July 22, 2004.

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

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Unites States Patent and Trademark Office

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

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OFFICE OF PETITIONS

In re Application of	:
Makabe, et al.	: DECISION ON APPLICATION
Application No. 10/178,514	: FOR PATENT TERM ADJUSTMENT
Filed: June 25, 2002	:
Atty. Dkt. No.: 5362.0031	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed February 20, 2008.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **GRANTED**.

Applicants request that the Determination of Patent Term Adjustment be corrected from 580 days, as indicated on the Determination of Patent Term Adjustment mailed November 29, 2007, to an adjustment of 584 days. Applicants argue that a response to the final Office action mailed February 27, 2006 was submitted July 26, 2006, rather than July 30, 2006.

The correct PTA at the time of the allowance is 584 days, as argued by applicants.

Applicants do not contest the adjustment of 730 days under 37 CFR 1.702(a)(1). Applicants do not contest the reduction of 86 days under 37 CFR 1.704(b) in connection with the response submitted April 16, 2007.

Applicants contest the reduction of 64 days in connection with the Request for Continued Examination (RCE) filed July 26, 2006. A review of the record reveals that the RCE was filed July 26, 2006, as argued by applicants. Thus, the reduction in this regard under 37 CFR 1.704(b) commenced May 28, 2006, the day after the date that is three months after the date that the final Office action was mailed, and ended July 26, 2006, the date that the RCE was filed.

In review thereof, at the time of allowance, the application is entitled to an adjustment of 584 days, as argued by applicants.

The required PTA application fee of $200.00 has been charged to applicant's deposit account as authorized.

Applicants are further advised that the patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

The application file is being forwarded to the 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

Enclosure: Adjusted PAIR Calculation

PALM INTRANET

Day : Sunday
Date: 6/1/2008
Time: 10:13:15

PTA Calculations for Application: 10/178514			
Application Filing Date:	06/25/2002	PTO Delay (PTO):	730
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	150
Post-Issue Petitions:	0	Total PTA (days):	584
PTO Delay Adjustment:	4		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
71	06/01/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	4		
60	11/29/2007	MAIL NOTICE OF ALLOWANCE			
59	11/27/2007	ISSUE REVISION COMPLETED			
58	11/27/2007	DOCUMENT VERIFICATION			
57	11/27/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
56	11/27/2007	CASE DOCKETED TO EXAMINER IN GAU			
55	11/26/2007	NOTICE OF ALLOWABILITY			
51	10/23/2007	DATE FORWARDED TO EXAMINER			
50	10/12/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
49	10/23/2007	DATE FORWARDED TO EXAMINER			
48	10/12/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
47	10/23/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
46	10/12/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
45	07/13/2007	REQUEST FOR REFUND			
44	07/13/2007	MAIL FINAL REJECTION (PTOL - 326)			
43	07/09/2007	FINAL REJECTION			
42	04/28/2007	DATE FORWARDED TO EXAMINER			
41	04/16/2007	RESPONSE AFTER NON-FINAL ACTION		86	39
40	04/16/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
39	10/20/2006	MAIL NON-FINAL REJECTION			
38	10/16/2006	NON-FINAL REJECTION			
37	08/03/2006	DATE FORWARDED TO EXAMINER			
36	07/30/2006	AMENDMENT SUBMITTED/ENTERED WITH			

		FILING OF CPA/RCE			
35	08/03/2006	DATE FORWARDED TO EXAMINER			
34	07/30/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)		64	26
33	08/03/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
32	07/30/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
31	07/26/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
30	06/08/2006	MAIL ADVISORY ACTION (PTOL - 303)			
29	06/06/2006	ADVISORY ACTION (PTOL-303)			
28	05/26/2006	DATE FORWARDED TO EXAMINER			
27	05/19/2006	AMENDMENT AFTER FINAL REJECTION			
26	02/27/2006	MAIL FINAL REJECTION (PTOL - 326)			
25	02/21/2006	FINAL REJECTION			
24	09/09/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
23	12/05/2005	DATE FORWARDED TO EXAMINER			
22	11/23/2005	RESPONSE AFTER NON-FINAL ACTION			
21	09/09/2005	REFERENCE CAPTURE ON IDS			
20.7	09/09/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	09/09/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	08/24/2005	MAIL NON-FINAL REJECTION	730		-1
18	08/22/2005	NON-FINAL REJECTION			
17	09/26/2002	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
16	06/23/2005	CASE DOCKETED TO EXAMINER IN GAU			
15	05/20/2005	CASE DOCKETED TO EXAMINER IN GAU			
14	04/08/2005	CORRESPONDENCE ADDRESS CHANGE			
13	03/21/2005	CASE DOCKETED TO EXAMINER IN GAU			
12	05/25/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
11	09/26/2002	REFERENCE CAPTURE ON IDS			
10	12/02/2002	CASE DOCKETED TO EXAMINER IN GAU			
9	06/25/2002	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
8.7	09/26/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

8	09/26/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	10/07/2002	APPLICATION DISPATCHED FROM OIPE			
6	10/07/2002	APPLICATION IS NOW COMPLETE			
5	09/26/2002	ADDITIONAL APPLICATION FILING FEES			
4	08/05/2002	PRE-EXAM OFFICE ACTION WITHDRAWN			
3	08/05/2002	CORRECTED PAPER			
2	07/08/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	06/25/2002	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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OIPE IAP42
FEB 20 2008
PATENT & TRADEMARK OFFICE

PATENT
Attorney Docket No. 5362.0031

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	
KOICHI MAKABE ET AL.	Group Art Unit: 2179
Application No.: 10/178,514	Examiner: S. Hanne
Filed: June 25, 2002	Confirmation No.: 5796
For: CHARACTER INPUT SYSTEM AND COMMUNICATION TERMINAL	

Assistant Commissioner for Patents
Washington, DC 20231

Sir:

APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)

Applicant hereby submits this Application for Patent Term Adjustment in order for the Patent Office to reconsider the patent term adjustment ("PTA") for the above-identified application.

In the Determination of Patent Term Adjustment issued by the Patent Office, it was determined that the PTA is 580 days. However, Applicant believes a PTA of 584 days is correct.

On February 27, 2006, the Patent Office mailed an Office Action setting a three-month period for response. Applicant filed a Request for Reconsideration on May 19, 2006. In response, the Patent Office mailed an Advisory Action on June 8, 2006, in which the next response date was June 19, 2006. Applicant then filed a Request for Continued Examination ("RCE"), two-month Petition for Extension of Time, and Amendment on July 26, 2006. Applicant's filing of the RCE should have resulted in a

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04 FC:1455 200.00 OP

delay by Applicant of 60 days, not 64 days, as indicated in the PTA history. It appears the reason for this error is the erroneous indication on the PTA history of the RCE being filed 07-30-2006, instead of 07-26-2006. As proof of the RCE filing date, Applicant attaches hereto a copy of the date stamped postcard indicating that the RCE and its accompanying papers were filed on July 26, 2006.

In view of the above, Applicant's total delay should be 146 days (not 150 days as reflected in the PTA history). When Applicant's 146-day delay is applied to the USPTO delay of 730 days, the resulting PTA is 584 days.

Applicant therefore requests reconsideration of the PTA for this application in view of the explanation provided above.

A check in the amount of $200.00 is enclosed with this Application. If any additional required fees are necessary, please charge to deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: 2/20/08

By: _____
Richard V. Burgujian
Reg. No. 31,744

Attachment: Date stamped postcard indicating the receipt by the USPTO of the RCE filed July 26, 2006

OIPE IAP42
FEB 20 2008
PATENT & TRADEMARK OFFICE

RDB/SDT/ALN

22

PLEASE STAMP TO ACKNOWLEDGE RECEIPT OF THE FOLLOWING:

In Re Application of: Koichi Makabe, et al.
Application No.: 10/178,514
Filed: June 25, 2002
For: CHARACTER INPUT SYSTEM AND COMMUNICATION TERMINAL

Confirmation No.: 5796
Group Art Unit: 2179
Examiner: Sara M. Hanne

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1. Request for Continued Examination (RCE) Transmittal Form (1 page);
2. Petition for Extension of Time (2 months), (1 page);
3. Amendment (13 pages); and
4. Check for $620 for filing of RCE (small entity) $395 and two month extension fee $225.

Dated July 26, 2006
Docket No.: 05362.0031-00000
RVB/SDT/bao/W. Richards - Mail Drop 830B

OIPE IAP40
JUL 26 2006
PATENT & TRADEMARK OFFICE

(Due Date: July 27, 2006)

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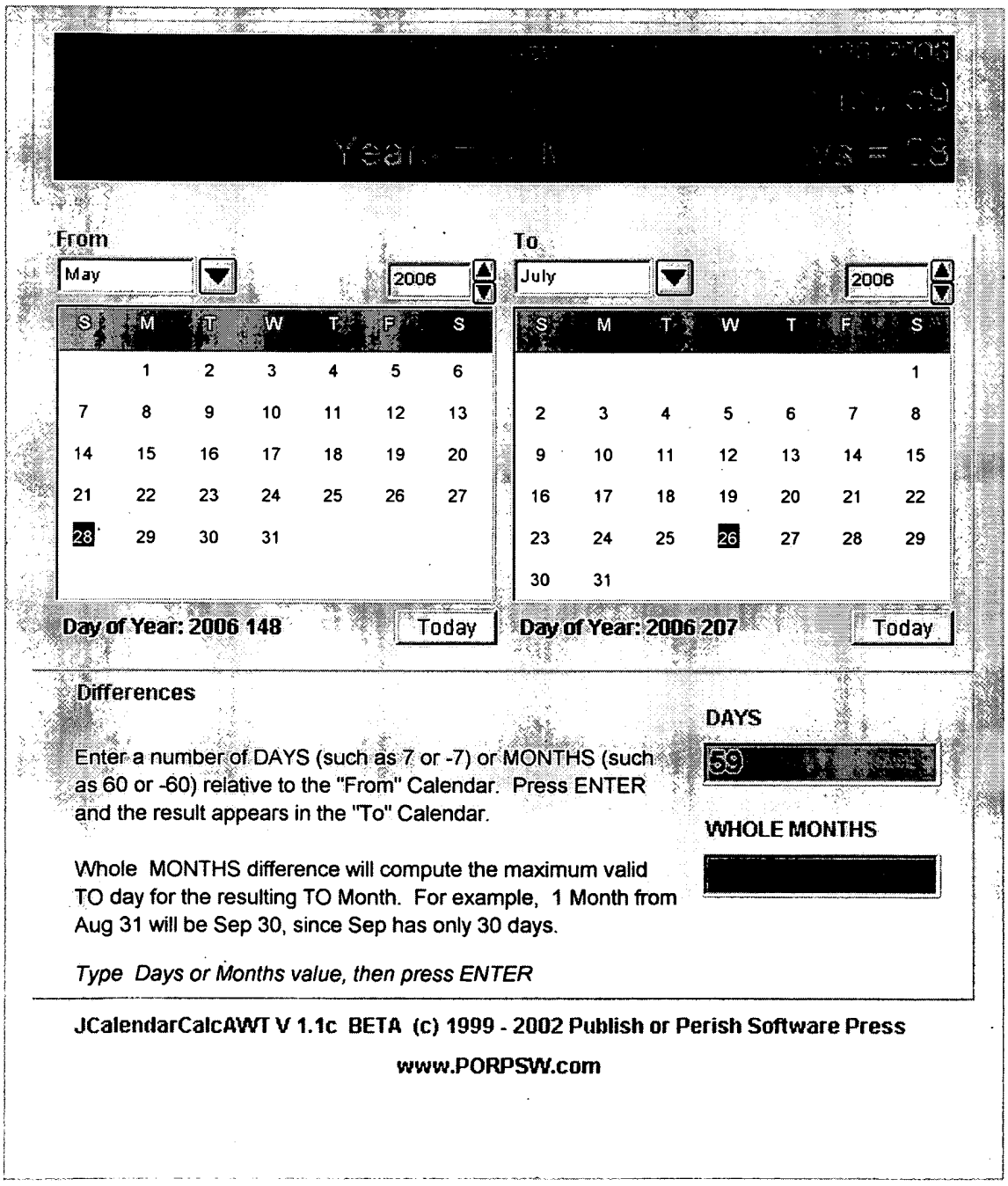

As time always moves forward, the Years, Months, Days breakdown is always computed from the lesser

date toward the greater date. From Feb 28 To Apr 9, 2002 is 1M 12 D, and From Apr 9 To Feb 28 is reported as -1M -12D for consistency (instead of -1M - 9D).

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901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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OFFICE OF PETITIONS

In re Patent No. 7,395,512	: ON PETITIONS under
Issued: July 1, 2008	: 37 CFR 1.183 and ON REQUEST
Application No. 10/178,514	: FOR RECONSIDERATION OF
Filed: June 25, 2002	: PATENT TERM ADJUSTMENT
Dkt. No.: 5362.0031	:

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(d) filed more than two months from the date the above-referenced patent issued; and on the 2) application for patent term adjustment under 37 C.F.R. § 1.705(d), both filed on December 24, 2008.

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

The request for reconsideration of patent term adjustment under 37 CFR 1.705(d) is **dismissed as untimely filed**.

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

BACKGROUND

On July 1, 2008, the above-identified application matured into U.S. Patent No. 7,395,512 with a revised patent term adjustment of 595 days. No request for reconsideration of the patent term adjustment indicated in the patent was filed within two months of the date the patent issued. Patentee now petitions under 37 C.F.R. § 1.183 to (i) suspend or waive the requirement of 37 C.F.R. § 1.705(d) that a Request for Reconsideration of Patent Term Adjustment be filed within two months of the date the patent issued; and (ii) consider the enclosed DETERMINATION OF PATENT TERM ADJUSTMENT - POST GRANT. Patentee references the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008) as the basis for the petition.

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

The above-referenced patent issued on July 1, 2008. A request for reconsideration of the patent term adjustment indicated in the patent was not filed until December 24, 2008. Petitioner requests that the Office suspend the rules and consider on the merits the Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) even though it was untimely filed more than two months from the date the patent issued.

The relevant regulation, 37 CFR 1.705(d), provides that:

> If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, *any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued* and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues. (*emphasis* added).

By the express provisions of 37 CFR 1.705(d), a request for reconsideration of patent term adjustment must be filed within two months of the date the patent issued. It is undisputed that no such request for reconsideration was filed by September 1, 2008, the date two months from the date this patent issued, July 1, 2008. Rather, on December 24, 2008, after the issuance of a decision in Wyeth v. Dudas on September 30, 2008, petitioner filed the instant request for waiver of the two-month requirement.

37 CFR 1.183 provides that:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

35 U.S.C. 154, which requires the Office to provide the applicant one opportunity to request reconsideration of any patent term adjustment determination made by the Director, authorizes the Director to establish the procedures for requesting such reconsideration. Those procedures[1]

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[1] 35 U.S.C. § 154(b)(3) provides that the USPTO shall: (1) prescribe regulations establishing procedures for the application for and determination of patent term adjustments under 35 U.S.C. § 154(b); (2) make a determination of any patent term adjustment under 35 U.S.C. § 154(b) and transmit a notice of that determination with the notice of allowance under 35 U.S.C. § 151; and (3) provide the applicant one opportunity to request reconsideration of any patent term adjustment determination. Pursuant to the mandate and authority in 35 U.S.C. § 154(b)(3), the USPTO

include, pursuant to 37 CFR 1.705(d), setting a two-month period for filing a request for reconsideration of the revised patent term adjustment indicated in the patent.

Having considered petitioner's arguments, it is concluded that waiver of the two-month requirement is not warranted. The basis for requesting waiver set forth by petitioner is the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008).

Petitioner has not explained why it could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued. Apparently, petitioner's argument is that the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered after the issuance of their patent.

The fact that any relief ultimately granted in Wyeth would benefit patentee had they timely filed a request for reconsideration does not make the situation extraordinary. Wyeth followed the procedure set forth in 37 CFR 1.705 for requesting reconsideration of the patent term adjustment determination. Then, pursuant to 35 U.S.C. 154(b)(4)(A), Wyeth timely filed a complaint in District Court seeking judicial review of the Office's decision. A Memorandum Opinion and Order, the Wyeth decision of September 30, 2008, directed to the parties involved was issued.

Petitioner could have filed a timely Request for Reconsideration of Patent Term Adjustment, as Wyeth did, but chose not to do so. The fact that the District Court has now issued an Opinion contrary to the Office's interpretation does not make the situation extraordinary. This is not unlike any other situation where a patentee (or applicant) challenges a final agency decision and the decision upon judicial review could have had applicability to another patentee (or applicant) had they taken such action. In fact, many patentees may be in the same situation as petitioner with respect to the Wyeth decision. In addition, given that the law only allows 180 days for both the filing of a petition and for the Office's consideration of that petition, petitioner's unexplained delay in filing the petition weighs against them.

Petitioner simply fails to articulate how their failure to file a request for reconsideration of patent term adjustment within two months of the issue date of the patent was due to an extraordinary situation. Petitioner cannot rely on Wyeth's actions or the Wyeth decision to establish that their situation was extraordinary.

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promulgated 37 C.F.R. § 1.705, which provides that: (1) the notice of allowance will include notification of any patent term adjustment under 35 U.S.C.
§ 154(b)(37 C.F.R. § 1.705(a)); (2) any request for reconsideration of the patent term adjustment indicated in the notice of allowance (except as provided in 37 C.F.R. § 1.705(d)) must be by way of an application for patent term adjustment filed no later than the payment of the issue fee and accompanied by (inter alia) the fee set forth in 37 C.F.R. § 1.18(e)(37 C.F.R. § 1.705(b)); and (3) if the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued.

The contention that a decision is in error is a basis for a timely request for review of the decision but does not justify a delay in seeking review of such decision.

The Office provided notice that petitions under 37 CFR 1.182 and 1.183 or requests for certificate of corrections under 35 USC 354 and Sec. 1.323 or 35 U.S.C. 255 and Sec. 1.324 are not substitute *fora* to obtain reconsideration of a patent term adjustment determination indicated in a notice of allowance if applicant fails to submit a request for reconsideration within the time period specified in Sec. 1.705(b) or to obtain reconsideration of a patent term adjustment determination indicated in a patent if a patentee fails to submit a request for reconsideration within the time period specified in Sec. 1.705. See 69 Fed. Reg. 21704, 21707 (April, 22, 2004).

In view thereof, the petition under 37 CFR 1.183 for waiver of the two-month requirement of 37 CFR 1.705(d) is **dismissed**.

Accordingly, consideration now turns to the Request for Reconsideration of Patent Term Adjustment under 37 CFR 1.705(d).

ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)

This is a decision on the application for patent term adjustment under 37 CFR 1.705(d), filed December 24, 2008. Therein, patentee requests correction of the patent term adjustment (PTA) indicated in the patent to 927 days.

On July 1, 2008, the above-identified application matured into U.S. Patent No. 7,395,512 with a revised patent term adjustment of 595 days. The instant request for reconsideration was filed more than two months after the issuance of the patent, on December 24, 2008.

No error in the printing of the patent has been shown. The patent term adjustment indicated on the patent reflects the Office's determination of patent term adjustment shown in the PAIR system for this application. 37 CFR 1.705(d) provides the sole avenue before the Office for requesting reconsideration of the Office's determination of patent term adjustment indicated in the patent. Moreover, § 1.705(d) states that "any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section." Since the request was not filed within two months of the issue date of the patent, the request is properly **dismissed as untimely filed**.

CONCLUSION

It is determined that waiver of the requirement pursuant to 37 CFR 1.183 is not warranted. Accordingly, the request for reconsideration of the patent term adjustment under 37 CFR

1.705(d) filed more than two months after the issue date of the patent is dismissed as untimely filed.

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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SUITE 800
WASHINGTON DC 20037

2/29/08

In re Application of:
FURUYA, MANABU
Serial No. 10/178,515
Filed: June 25, 2002
Docket: Q70426
Title: GAME DEVICE, AND METHOD AND PROGRAM FOR PROCESSING IMAGE OF PERSON

DECISION ON PETITION

This is a decision on the petition filed on July 05, 2006. Petitioner is requesting withdrawal of the abandonment and reinstatement of the appeal under 37 CFR § 1.181. Alternatively, should the petition under 37 CFR § 1.181 be dismissed, the petitioner is requesting that it be treated, alternatively, under 37 CFR § 1.137(a) and (b).

The petition is dismissed.

Initially, it is pointed out that the petition requests two different forms of relief. This is impermissible under 37 CFR § 1.4(c). This decision will only address the issues under 37 CFR § 1.181. No fee is required under this section.

Background

A Notice of Appeal was filed on July 01, 2005 and an Appeal Brief was filed on September 01, 2005. A Notification of Non-Compliance (hereinafter, Notification) with 37 CFR § 41.37 was mailed on December 02, 2005. Applicant responded with a new amended Appeal Brief filed January 03, 2006. The Examiner mailed a Notice of Abandonment (hereinafter, Notice) on May 19, 2006 stating that the amended brief failed to correct the deficiencies raised by the Notification and dismissing the appeal. With no claims allowed, the application was abandoned. The petition was subsequently filed on July 05, 2006. Petitioner contends the dismissal was improper and should be withdrawn for several reasons, they being that the submitted amended brief is compliant; but further contending adequate notice has not been given as to the requirements with respect to a concise statement of each ground of rejection being only one sentence in interpreting 37 CFR § 41.37(c)(1)(vi); the examiner did not state with particularity what the deficiency was and how it should be corrected, only that applicant need not provide

argument and petitioner contends there is no argument; petitioner further contends there was unreasonable delay on the part of the examiner to notify the applicant that the amended brief was non-compliant resulting in losses to applicant. Lastly, petitioner has provided a second amended brief accompanying this petition which petitioner asserts corrects any non-compliant issues remaining that the examiner found objectionable and were made based on an interview with the examiner.

Discussion and Decision

A review and comparison of the original brief and the amended brief indicates that issues raised by the examiner in the Notification remained in the amended brief. For example, in Section VI of the amended brief under VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL, applicant continued to provide more than a concise statement of the grounds of rejection as required 37 CFR § 41.37(c)(1)(vi). Guidance is provided in MPEP 1205.02:

> **>(vi) Grounds of rejection to be reviewed on appeal. A concise statement of each ground of rejection presented for review.< For example, the statement ** "Whether claims 1 and 2 are unpatentable" would not comply with **>the rule, while the statements< "Whether claims 1 and 2 are unpatentable under 35 U.S.C. 103 over Smith in view of Jones," *>and< "Whether claims 1 and 2 are unpatentable under 35 U.S.C. 112, first paragraph, as being based on a nonenabling disclosure" **>would comply with the rule. The statement cannot include any argument concerning the merits of the ground of rejection presented for review. Arguments should be included in the "Argument" section of the brief.<

The examiner's expanded explanation of the statement of the grounds of rejection is not intended to be included by the guidance provided. Considering, argumentatively, that the explanation is part of the statement, applicant's manner of phrasing the explanation with use of such phrases as [the Examiner] "looks to" and "asserts" can be perceived as argument by their context, and their addition to the examiner's explanation detracts from conciseness. Petitioner has stated that applicant could not fully respond in the amended brief because adequate particularity was not provided by the examiner. The Notification, along with the examiner's statement that the grounds of rejection were not concise (set forth as item 2 on page 3 attached to the Notification), and the above MPEP cite to provide guidance should have been sufficient to correct the deficiency regarding the statement of the grounds of rejection.

Petitioner has stated that several attempts to contact the examiner for suggested remedies were unsuccessful. It is noted that the examiner did provide the name of his supervisor and the phone number where she could be reached in the event this occurs. It is not clear that attempts to contact the supervisor were made to expedite answers to the inquiries sought.

In the Notification, on the attached page 3, the examiner raised other issues in items 3,4, and 5. On page 16 of the original brief, claims 1, 5 and 6 are referenced. In the amended brief, on page 17, claims 1, 4, and 5 are referenced. (The different claim numbers are not an issue, the amended brief supersedes on this matter as to which are the correct claims.) It is not clear if it was intended to argue the claims as a group, or separately. This is done

again with respect to claims 3, 6, and 7 in page 19 of the original brief and page 20 in the amended brief. MPEP 1205.02 provides guidance for this as well:

> >Each ground of rejection must be treated under a separate heading. For each ground of rejection applying to two or more claims, the claims may be argued separately or as a group. When multiple claims subject to the same ground of rejection are argued as a group by appellant, the Board may select a single claim from the group of claims that are argued together to decide the appeal with respect to the group of claims as to the ground of rejection on the basis of the selected claim alone. The failure of appellant to separately argue claims which appellant has grouped together constitutes a waiver of any argument that the Board must consider the patentability of any grouped claim separately. See In re McDaniel, 293 F.3d 1379, 1384, 63 USPQ2d 1462, 1465-66 (Fed. Cir. 2002). Any claim argued separately should be placed under a subheading identifying the claim by number. Claims argued as a group should be placed under a subheading identifying the claims by number.
>
> For example, if Claims 1 to 5 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. Y and appellant is only going to argue the limitations of independent claim 1, and thereby group dependent claims 2 to 5 to stand or fall with independent claim 1, then one possible heading as required by this subsection could be "Rejection under 35 U.S.C. 102(b) over U.S. Patent No. Y" and the optional subheading would be "Claims 1 to 5." Another example is where claims 1 to 3 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. Z and appellant wishes to argue separately the patentability of each claim, a possible heading as required by this subsection could be "Rejection under 35 U.S.C. 102 (b) over U.S. Patent No. Z," and the optional subheadings would be "Claim 1," "Claim 2 " and "Claim 3." Under each subheading the appellant would present the argument for patentability of that claim. The best practice is to use a subheading for each claim for which separate consideration by the Board is desired.<

While the examiner raised this issue with respect to items 3, 4, and 5 in the attached page 3 of the Notification, it was not raised in the Notice. It appears there may remain obfuscation as to applicant's intent to argue the claims as a grouping, or separately, since applicant has not employed the suggested format in the MPEP and repeats all the claims affected within the body of the arguments. It is noted the second amended brief accompanying the petition is written similarly. At best, even if applicant's intent is considered sufficiently clear, repeating a portion of MPEP 1205.02, from above:

> When multiple claims subject to the same ground of rejection are argued as a group by appellant, the Board may select a single claim from the group of claims that are argued together to decide the appeal with respect to the group of claims as to the ground of rejection on the basis of the selected claim alone. The failure of appellant to separately argue claims which appellant has grouped together constitutes a waiver of any argument that the Board must consider the patentability of any grouped claim separately.

In view of what constitutes a waiver, clarity of intent may not be an issue with respect to compliance but is, nevertheless, brought to petitioner's attention for review. The decision on this part of the brief being in compliance remains with the examiner.

The undersigned notes petitioner's observation that the response by the examiner took over five months. However, this and other administrative delays cannot be applied as a reason to grant the

petition under 37 CFR § 1.181. Attention is directed to MPEP 2730 for possible adjustments of patent terms due to administrative delays.

With respect to the abandonment of the application, 37 CFR § 41.37(d) states:

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

Furthermore, MPEP 1215.04, last paragraph, states the following:

> An appeal will also be dismissed if an applicant fails to timely and fully reply to a notice of noncompliance with 37 CFR *>41.37(d)<. See MPEP § *>1205.03< and 37 CFR *>41.37(d)<. As in examples (B)-(C) above, if no allowed claims remain in an application, the application is abandoned as of the date the reply to the notice was due. The applicant may petition to revive the application as in other cases of abandonment, and to reinstate the appeal. If the appeal is dismissed, but allowed claims remain in the application, as in examples (A) and (D) above, the application is not abandoned; to reinstate the claims cancelled by the examiner because of the dismissal, the applicant must petition to reinstate the claims and the appeal, but a showing equivalent to a petition to revive under 37 CFR 1.137 is required. In either event, a proper reply to the notice of noncompliance must be filed before the petition will be considered on its merits.

Based on 37 CFR § 41.37(d) and MPEP 1215.04, the appeal was properly dismissed. There being no allowable claims, the examiner was correct in abandoning the application with the dismissal of the appeal.

In view of the above, the relief requested cannot be granted under 37 CFR § 1.181.

PETITION DISMISSED.

Petitioner is again reminded that this decision does not address the abandoned status of the application because to do so would contravene the requirement of 37 CFR § 1.4(c), which the undersigned is without authority to waive. A petition to revive under 37 CFR § 1.137, including the required fee, should be separately filed and directed to the Office of the Deputy Commissioner for Patent Examination Policy at Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450. See MPEP 1002.02.

Any inquiry regarding this decision should be directed to Allan N. Shoap, Special Program Examiner, at (571) 272-4514.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

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7/25/08

In re Application of:
FURUYA, MANABU
Serial No.: 10/178,515
Filed: June 25, 2002
Docket: Q70426
Title: GAME DEVICE, AND METHOD AND PROGRAM FOR PROCESSING IMAGE OF PERSON

DECISION ON PETITION

This is a decision on the renewed petition filed on April 29, 2008 by which petitioner requests to withdraw a holding of abandonment, and alternatively petition to revive the abandoned application. This petition is considered to accept the appeal brief filed on April 29, 2008 pursuant to 37 CFR § 1.181, and no fee is required.

The petition is **GRANTED IN PART**.

The record shows that:

1) On September 1, 2005, the applicant submitted an appeal brief.
2) On December 2, 2005, the examiner issued a Notification of Non-Compliant Appeal Brief because the brief did not contain concise statements on the grounds of rejection and it was unclear whether claims were argued as a group or separately.
3) On January 3, 2006, the applicant responded with a replacement appeal brief.
4) On May 19, 2006, the application was abandoned because the non-compliant issues were not addressed within the set time frame.
5) On July 5, 2006, the applicant responded with a petition to withdraw holding of abandonment and alternatively revive the abandoned application.
6) On February 29, 2008, the petition was dismissed because a concise statement for grounds of rejection was not found, and the appeal brief was not compliant with 37 CFR 41.37(d) and MPEP 1215.04.
7) On April 29, 2008 the applicant submitted a third replacement brief, a petition to reconsider the holding of abandonment and alternatively revive the abandoned application.

Discussion

In the renewed petition, petitioner argues that it is permissible to seek alternative relief in a petition. In order to expedite the process, this decision will only address issues involved under 37 CFR § 1.181. Any requested alternative relief under 37 CFR § 1.183 and 1.137 (a) and (b) will be forwarded to Petitions Office for consideration and decision. This request to forward undecided parts of the petition to Petitions Office for consideration is granted.

Petitioner also argues that the appeal brief as filed does comply with 37 CFR § 41.37. A review of the latest appeal brief accompanying the current renewed petition filed on April 29, 2008 indicates that the defect noted by the examiner has been remedied. In particular the concise statements on the grounds of rejection and the clear argument organization of claims, have been corrected by the latest brief filed Apr. 29, 2008 which is now in compliance with MPEP 1205.02 and therefore is acceptable.

In the renewed petition, petitioner requests that the Notice of Abandonment mailed on May 19, 2008 be withdrawn. However, the holding of abandonment of the application was found proper in accordance with MPEP 1215.04 as clearly explained in the previous decision mailed on February 29, 2008. The request to withdraw the abandonment will not be granted under 37 CFR 1.181. The current renewed petition for alternative relief under 37 CFR 1.137 (a) and (b) will be forwarded and considered by the Petitions Office.

In the renewed petition, petitioner also seeks relief based on an alternative relief for suspension of rules under 37 CFR § 1.183, this alternative relief cannot be granted at the TC 3700 level. Therefore, this renewed petition will be forwarded to the Petitions Office for consideration and decision as requested by the petitioner.

Conclusion

Since the latest appeal brief of April 29, 2008 is now acceptable, then, the petition to withdraw abandonment under 37 CFR 1.137(a) and (b) is now being forwarded to the Petitions Office for decision as requested by the petitioner. Petitioner's request for revival of the abandoned application under 37 CFR § 1.137 is not decided in this decision. The application is being forwarded to the Petitions Office for further consideration. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

The petition is GRANTED IN PART.

Frederick R. Schmidt, 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

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

MAILED
MAR 24 2010
OFFICE OF PETITIONS

In re Application of	:	
Manabu Furuya	:	
Application No. 10/178,515	:	ON PETITION
Filed: June 25, 2002	:	
Attorney Docket No. Q70426	:	

This is a decision on:

(1) the petition under the unavoidable provisions of 37 CFR 1.137(a) to revive the above-identified application;

(2) the petition under the unintentional provisions of 37 CFR 1.137(b) to revive the above-identified application;

(3) the petition under 37 CFR 1.183 to waive requirements of 37 CFR 41.37;

(4) the petition under 37 CFR 1.183 to waive requirements of 37 CFR 1.4(c).

These petitions were filed concurrently on April 29, 2008.

The petition to revive under 37 CFR 1.137(a) is **DISMISSED**; the petition to revive under 37 CFR 1.137(b) is **DISMISSED**; the petition under 37 CFR 1.183 to waive requirements of 37 CFR 41.37 is **DISMISSED** as being moot since the brief filed April 29, 2008 complies with 37 CFR 41.37, as discussed in the decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment mailed July 25, 2008; and the petition under 37 CFR 1.183 to waive requirements of 37 CFR 1.4(c) is **DISMISSED** as moot.

This correspondence also re-iterates the decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, which was mailed July 25, 2008. As explained in the July 25, 2008 decision, the petition under 37 CFR 1.181 to withdraw the holding of abandonment is **DISMISSED.**

In regard to 37 CFR 1.4(c), the petition under 37 CFR 1.181 to withdraw the holding of abandonment was addressed separately. The remaining petitions will be addressed in the discussion below.

The application became abandoned for failure to timely file a proper reply to the Notification of Non-Compliant Appeal Brief, mailed December 2, 2005, which set a shortened statutory period for reply of the longer of one (1) month or thirty (30) days from the mailing date of the Notification. No extensions of time were obtained under 37 CFR 1.136. Accordingly, the date of abandonment of this application is January 13, 2006.

Revive, Unavoidable Delay

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the 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(d). The compliant appeal brief filed April 29, 2008 satisfies the reply requirement and the fee for a petition under 37 CFR 1.137(a) was paid. Also, since the instant application was filed after June 8, 1995, no terminal disclaimer is required. However, while a statement regarding unavoidable delay was made in the petition filed July 5, 2006, the instant petition lacks 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.

As is well established, 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). Here, since the evidence of record is insufficient to establish that the delay was unavoidable, the petition requesting the revival of the application due to unavoidable delay cannot be granted at this time.

Revive, Unintentional Delay

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)(II)(C) and (D).

The compliant appeal brief filed April 29, 2008 satisfies the reply requirement and the fee for a petition under 37 CFR 1.137(b) was paid. Also, since the instant application was filed after June 8, 1995, no terminal disclaimer is required. However, while a statement regarding unintentional delay was made in the petition filed July 5, 2006, an acceptable reply was not filed until April 29, 2008. The statement of unintentional delay must cover the **entire** period of delay. Since the period of delay extended from December 2, 2005 until April 29, 2008, the statement made July 5, 2006 is not acceptable. Any renewed petition under 37 CFR 1.137(b) should include a new statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The petition fee does not have to be paid again for the filing of a renewed petition.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

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

By Internet: EFS-Web[1]

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

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

Christopher Bottorff
Petitions Examiner
Office of Petitions

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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OFFICE OF PETITIONS

JOSEPH G. SANT'ANGELO
568 PARKSIDE COURT
ALLENTOWN, PA 18104

In re Patent No. 6,909,027	:	
Issue Date: June 21, 2005	:	
Application No. 10/178,522	:	ON PETITION
Filed: June 25, 2002	:	
Patentee(s) Perry Robins et al	:	

This is a decision on the petition under 37 CFR 1.378(c), filed August 24, 2009 and supplemented on December 4, 2009, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

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

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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Alexandria, VA 22313-1450
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62305

BAKER + HOSTETLER LLP
WASHINGTON SQUARE, SUITE 1100
1050 CONNECTICUT AVE. N.W.
WASHINGTON DC 20036-5304

JUL 8 2005

In re Application of:
Mills et al.
Serial No.: 10/178,526
Filed: June 25, 2002
Attorney Docket No.: **87360.278**

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed on July 13, 2004, to withdraw the holding of abandonment under 37 C.F.R. § 1.181. No fee is required.

The petition is **GRANTED**.

The application was held abandoned for failure to timely file a response to the Office action mailed on September 12, 2003. A Notice of Abandonment was mailed on June 29, 2004.

Petitioner asserts that on February 12, 2004, a response including an amendment was filed. To support this assertion, petitioner has submitted a copy of the response and a copy of a return postcard receipt, which acknowledges receipt in the PTO of a petition for a two-month extension of time, a check for the extension fee, and the amendment on February 12, 2004.

M.P.E.P. § 503 states, "A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the response was timely received in the PTO. A review of the file record also reveals that the original response filed February 12, 2004 has now been matched with the file.

For the above stated reason, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the examiner of record for consideration of the response and prompt appropriate action.

Inquiries regarding this decision should be directed to Clayton E. LaBalle, Special Programs Examiner, at (571) 272-1594.

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

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Patent Department
Mitsubishi Electric Research Laboratories, Inc.
201 Broadway
Cambridge, MA 02139

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OFFICE OF PETITIONS

In re Application of	:	
Clifton L. Forlines, et. al.	:	
Application No. 10/178,584	:	ON PETITION
Filed: June 24, 2002	:	
Attorney Docket No. N/A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on August 14, 2006, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Notice of Drawing Inconsistency with Specification mailed February 1, 2006. A Notice of Abandonment was mailed on April 21, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of an amendment to the specification to contain Figure 9C; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office acknowledges receipt of $1,400 for payment of the issue fee and $300 for payment of the publication fee submitted on January 6, 2006.

This application file is being referred to the Office of Publications, for review of amendment to the specification.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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McDermott, Will & Emery
28 State Street
Boston, MA 02109

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OFFICE OF PETITIONS

In re Patent of	:	
Shajii et al.	:	
Application No. 10/178,586	:	DECISION
Filed: June 24, 2002	:	ON PETITION
Attorney Docket Number:	:	
56231-355 (MKS-110)	:	

This is a decision on the Petition Withdraw Holding of Abandonment Under 37 CFR § 1.137(b), filed April 4, 2005. The delay in treating this petition is regretted.

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

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

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed June 10, 2004. The Office action set a three (3) month period for reply. No timely and proper reply having been filed, this application became abandoned on September 11, 2004. A Notice of Abandonment was mailed February 17, 2005.

Applicant files the instant petition and asserts that a complete and proper filed a reply in the form of a Terminal Disclaimer was timely filed on September 9, 2004 (Certificate of Mailing dated September 7, 2004).

A review of Office records reveal that Applicant filed, and the Office received a Terminal Disclaimer on September 9, 2004 (Certificate of Mailing dated September 7, 2004) in response to the Office action.

In view of the above, the petition is granted. The Notice of Abandonment is hereby vacated, and the holding of abandonment is hereby withdrawn. Because the petition withdrawing the holding

of abandonment is hereby granted, the petition to revive the application is dismissed as moot.

The application is being referred to technology Center Art Unit 2863 for further processing in due course.

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

Derek L. Woods
Attorney
Office of Petitions

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Milan Dennis Earl
607 Beacon Street
Moorestown, NJ 08057

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In re Application of :
Milan Earl and Brian Earl :
Application No. 10/178,609 :
Filing Date: June 24, 2002 :
For: Container Having Adjusting :
Compartments :

Decision on Petition

This is a decision on the petition under 37 CFR 1.181, filed April 19, 2006, to withdraw the holding of abandonment.

The petition is **granted.**

Facts:

The application was filed on June 24, 2002.

Petitioners' assert a request to change the address of record was filed during 2003. The request to change the address cannot be located in the file. A copy of the request has not been provided.

A non-final Office action was mailed on March 11, 2004.

The USPS forwarded the Office action to petitioners' new address.

A reply was filed on July 7, 2004.

The following language appears on bold at the end of the reply:

607 Beacon Street Moorestown, NJ 08057	**Please note- this is a change of address ... PTO was formally notified in 2003...please update records...1st office action was forwarded and was received late

The reply was properly signed by both of the inventors.

The Office did not change the address of record.

A "Notice of Non-Compliant Amendment" was mailed August 26, 2006, to the old address. The Notice set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later.

Petitioners failed to receive the Notice. Therefore, a reply was not filed.

The application was deemed abandoned as of September 27, 2006.

A Notice of Abandonment was mailed reply November 10, 2005, to the old address.

Discussion:

A request to change the address of record must be presented in a manner reasonably calculated to call attention to the fact that it is a request to change the address of record. If an Office action is not received due to a failure by an applicant to properly change the address of record, then the holding of abandonment will not be withdrawn.

MPEP 601.03 states,

> The required notification of change of correspondence address need take no particular form. However, it should be provided in a manner calling attention to the fact that a change of address is being made. Thus, the mere inclusion, in a paper being filed for another purpose, of an address which is different from the previously provided correspondence address, without mention of the fact that an address change is being made would not ordinarily be recognized or deemed as instructions to change the correspondence address on the file record.

Although the request to change the address on the same sheet as part of the remarks, it was bolded and clearly stated the address should be changed. Therefore, the Office should have changed the address of record.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Technology Center Art Unit 2725 will be informed of the instant decision. Thereafter, the Technology Center's technical support staff will mail a new Notice of Non-Compliant Amendment. The time period for responding to the new Notice will be set to run from the mailing date of the new Notice.

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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Paper No. 13

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

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OCT 1 4 2004

OFFICE OF PETITIONS

In re Application of	:
Shepherd, Ian Kenneth	:
Application No. 10/178,637	: DECISION GRANTING PETITION
Filed: June 25, 2002	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 1033.0170003	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 13, 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;
(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 25, 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).

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. 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 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 PCT application, accompanies this decision on petition.

Since the Examiner issued an Advisory Action on the Amendment submitted with the instant petition on January 13, 2004, a three-month extension of time is required for the RCE and Amendment submitted on May 13, 2004 to be considered timely. Accordingly, $950.00 will be charged to petitioner's deposit account as authorized for the extension of time. A copy of the Advisory Action is also enclosed for petitioner's convenience.

Any inquiries concerning this decision may be directed to Paralegal Liana Chase at (703) 306-0482 or at (571) 272-3206 after September 28, 2004.

This application is being forwarded to Technology Center Art Unit 3628 for processing of the RCE and appropriate action on the amendment filed May 13, 2004, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 and 365(c) to the prior-filed PCT application.

Frances Hicks

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

ATTACHMENTS: Corrected Filing Receipt
Advisory Action

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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DIW 04-05

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

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OFFICE OF PETITIONS

In re Patent No. 6,791,384	:	
Issued: 14 September, 2004	:	
Application No. 10/178,660	:	ON PETITION
Filed: 20 June, 2002	:	
Attorney Docket No. P/29-1632	:	

This is a decision on the petition filed on 6 October, 2004, which is being treated as a required under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted**.

Telephone inquires concerning this matter may be directed to the undersigned at 571.272.3218. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at 703.305.8309.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

GEORGE A. COURY
BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN, CT 06510-2802

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NOV 27 2002

OFFICE OF PETITIONS

In re Application of	:
Robert E. Henry	: DECISION DISMISSING
Application No. 10/178,661	: PETITION
Filed: June 21, 2002	:
Attorney Docket No. 01-360	:

This is a decision on the papers styled, "Petition And Response To Notice Of Omitted Items," which has been treated as a Petition Under 37 CFR 1.53, filed on August 21, 2002, requesting that the above-identified application be accorded a filing date of June 21, 2002, including page 2 of the specification.

The application was filed on June 21, 2002. The specification included a written description containing pages 1 and 3-6. Pages containing the claims (pages 7-8) and an abstract page (page 9) were also filed. No page number 2 was filed. Accordingly, on August 1, 2002, the Office of Initial Patent Examination (OIPE) mailed a "Notice Of Omitted Item(s) In A Nonprovisional Application," that stated the application had been accorded a filing date, but page 2 of the specification appears to have been omitted.

In response, the present petition was filed wherein petitioner argues that page 2 was filed on June 21, 2002. In support, petitioner states that his copy of the application papers mailed on June 21, 2002, includes a page 2. Additionally, the declaration of Janice T. Staton, petitioner's Legal Assistant, states that she personally conducted the review of the application before it was filed and that the application was complete as filed, including page 2 of the specification.

Furthermore, the petition is accompanied by a copy of the application as shown by petitioner's file, including a page 2 and by a copy of applicant's postcard receipt that acknowledges receipt of:

"
- New Application
- Drawing (2)
- combined decl
- Power of Att.
- Check $370
- FEE TRANSMITTAL AND APPLICATION COVER SHEET IN DUPLICATE
- IDS, LISTING ON FORM PTO 1449 WITH COPIES OF PRIOR ART"

on June 21, 2002.

The argument is not persuasive. The Patent and Trademark Office (Office) file is the official record of the papers originally filed in this application. A review of the official file reveals that 5 pages of specification, 2 pages of claims and an abstract page were filed on June 21, 2002. No page 2 was filed on June 21, 2002, since no such page is present in the file. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. The only evidence relied on to support petitioner's allegation is petitioner's copy of the application and the postcard receipt.

Regarding petitioner's copy of the application, the fact that petitioner's copy of the application contains a page 2 is not more probative than the official file record of what was actually mailed on June 21, 2002, which does not contain a page 2.

Regarding the postcard receipt, the Office has a well established and well publicized practice of providing a receipt for papers filed in the Office to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the Office with a self-addressed postcard identifying the paper. A postcard receipt which **specifically itemizes** and **properly identifies** the papers which are being filed serves as prima facie evidence of receipt in the Office of all the items listed thereon on the date stamped thereon by the Office. See MPEP 503. Petitioner's postcard receipt does not specifically itemize or properly identifies the items submitted on June 21, 2002. Petitioner's postcard simply states a "New Application" was filed without any indication or itemization as to how many pages of specification were filed. As such, the Office accepts that a new application was filed on June 21, 2002, and a filing date has

been granted for that date, however, since the postcard receipt was not properly itemized, the new application that was filed on June 21, 2002 contains only those papers found in the official file record of what was mailed on June 21, 2002, which does not contain a page 2.

Accordingly, the petition must be dismissed.

Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision in ordered to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

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

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of June 21, 2002, using the application papers filed on that date.

Telephone inquiries concerning this matter may 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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October 2004

Pillsbury Winthrop LLP
725 South Figueroa Street
Suite 2800
Los Angeles, CA 90017-5406

NOV -2 2004

In re Application of: Koji Ariga Serial No.: 10/178,690 Filed: June 24, 2002 Attorney Docket No.: P 0284620 3KG032948-USA-A	DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on the petition to withdraw the holding of abandonment under 37 C.F.R. § 1.181 filed on August 24, 2004. There is no fee for this petition.

The petition is **GRANTED**.

A Notice of Abandonment was mailed on July 7, 2004 holding the application to be abandoned for failure to timely file a response to the Office action mailed on September 15, 2003. Although the mail date of the Office action was actually left blank on the Notice of Abandonment, it is clear that the examiner was referring to the Office action mailed on September 15, 2003. It is also clear that there was no abandonment in fact. A review of the application file reveals that a response to the Office action was filed on December 18, 2003. The response included a Certificate of Mailing dated December 15, 2003 so it was a timely response under 37 C.F.R. § 1.8(a)(1).

The Notice of Abandonment mailed July 7, 2004 is **VACATED**.

The response will be processed by the technical support staff and the examiner will prepare an Office action based upon the response. Any inconvenience due to the inadvertent abandonment of the application is greatly regretted.

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

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

Pet. Dec.

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

Mailed: 4/19/05

MEB
Paper Number:

In re application of
Mansueto Favaro
Serial No. 10/178,704
Filed: June 25, 2002
For: Tobacco Processing Machine :

DECISION ON PETITION

This is a response to the PETITION TO WITHDRAW ABANDONMENT, filed March 12, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of February 24, 2004, for failure to timely reply to the office action of July 2, 2003 be withdrawn. The petitioner asserts that the response was timely filed by facsimile on October 31, 2003, with the appropriate Certificate of Transmission and extension of time.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding a Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed.

As set forth in MPEP 711.03(c), 37 CFR 1.10(c) through 1.10(e) 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 CFR 1.10(c), (d), or (e) (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 or transmission under 37 CFR 1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 CFR 1.8(b) and MPEP § 512. As stated in 37 CFR 1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). 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 CFR 1.8).

The petitioner's showing that the response with the appropriate Certificate of Transmission and extension of time is sufficient. The application will be forwarded to the examiner for processing and consideration of the papers filed October 31, 2003, by facsimile transmission and a copy of which is provided as an attachment to the instant petition.

The Petition is **Granted**.

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Guido Modiano
Via Meravigli 16
Milan, Italy 20123

UNITED STATES 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

ALAN A. CSONTOS
MICHELIN NORTH AMERICA, INC.
INTELLECTUAL PROPERTY DEPARTMENT
PO BOX 2026
GREENVILLE, SC 29602

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JUN 0 3 2004

OFFICE OF PETITIONS

In re Application of	:	
Mangeret et al.	:	
Application No. 10/178,725	:	
Filed: June 24, 2002	:	ON PETITION
For: RUBBER COMPOSITION FOR A	:	
TIRE COMPRISING A COUPLING AGENT	:	

This is a decision on the petition under 37 CFR 1.137, filed January 8, 2004, to revive the above-identified application. The petition is properly treated as a petition under 37 CFR 1.181, to withdraw the holding of abandonment.

The petition is **granted.**

The above-identified application became abandoned for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application, mailed July 30, 2002. The Notice set a two (2) month period for reply. No reply having been received, the above-identified application became abandoned October 1, 2002. A Notice of Abandonment was mailed on January 2, 2004.

Applicant's Assertion

Applicant avers non-receipt of the Notice, mailed July 30, 2002. In support, Applicant has provided the necessary statements and copies of the docket record where the non-received Notice would have been entered had it been received and docketed. Applicant has demonstrated by a preponderance of the evidence that the Office action was not received.

The Notice of Abandonment is hereby withdrawn. A refund of the petition fee, $130.00, has been credited to deposit account no. 13-3085 as authorized in the instant petition.

The Oath/declaration has been entered and made of record.

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

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

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WITHERS & KEYS, LLC
P.O. BOX 71355
MARIETTA GA 30007-1355

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OFFICE OF PETITIONS

In re Application of
Baker
Application No. 10/178,727
Filed: June 25, 2002
For: BS01-401

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(a) filed August 23, 2006, to revive the above-identified application.

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

The application became abandoned for failure to timely submit a proper response to the Notice of Allowance (Notice) mailed March 16, 2006. The Notice set a three month statutory period of time for reply. Notice of Abandonment was mailed July 19, 2006.

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

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(a). (*See*, MPEP 711.03(c) as relates to abandonment attributed to change of correspondence address.) Accordingly, the failure to timely submit a proper reply to the Notice is accepted as having been unavoidably delayed.

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

BEST AVAILABLE COPY

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8-8-05

TO SPE OF : ART UNIT 2834

SUBJECT : Request for Certificate of Correction on Patent No.: 6822372

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

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Should this be Approved

Thank You For Your Assistance

Ennis Young
Certificates of Correction Branch
Tel. No. 703-305-8309

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

☒ **Approved** — All changes apply.

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

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

Comments:

DARREN SCHUBERG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

2834
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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SUGHRUE MION PLLC
2100 PENNSYLVANIA AVENUE NW
SUITE 800
WASHINGTON, DC 20037

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OFFICE OF PETITIONS

In re Patent No. 6,855,394	:	
Issue Date: February 15, 2005	:	
Application No. 10/178,764	:	DECISION ON PETITION
Filed: June 25, 2002	:	
Attorney Docket No. Q70739	:	

This is a decision on the petition under 37 CFR 1.182, filed July 18, 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 the duplicate Letters Patent.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Krystal Paige, South Tower, 8th Floor (Fax No. (571) 273-9756)

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : January 27, 2006

TO SPE OF : ART UNIT 2818

SUBJECT : Request for Certificate of Correction on Patent No.: 6,934,192/Appl.10/178796

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

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Magdalene Talley

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9309 ext. 116

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

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

Comments:

_____

_____

_____

_____

_____

SPE 2827 **Art Unit**

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,780,194	2004-08-24	10/178,803	2002-06-24	D-7135

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	//Matthew Davies//	Date (YYYY-MM-DD)	2010-05-24
Name	Matthew Davies	Registration Number	60981

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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P.O. Box 1450
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In re Patent No. 6780194
Issue Date: August 24,2004
Application No. 10178803
Filed: June 24,2002
Attorney Docket No. D-7135

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

This is a decision on the electronic petition, filed May 24,2010 ,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 May 24,2010 .
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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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

LEE & HAYES PLLC
421 W. RIVERSIDE AVENUE SUITE 500
SPOKANE, WA 99201

In re Application of :
Glenn F. Evans et al. :
Application No. 10/178,804 : ON PETITION
Filed: June 24, 2002 :
Attorney Docket No.: **MS1-1115US** :

This is a decision on the petition filed April 12, 2006, to withdraw the holding of abandonment under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181," or, as explained in more detail below, "...under 37 CFR 1.137(a)" or (b). This is not a final agency decision.

The above-referenced application was held abandoned on March 14, 2006 for failure to file a timely response to the non-Final Office Action mailed December 13, 2005. The instant petition and this decision precede the mailing of the Notice of Abandonment.

The file record discloses that the non-Final Office Action was mailed to what was believed to be the address of record. However, petitioner contends that it was not received.

In a petition under 37 CFR 1.181 the petitioner must show, as in this instance where non-receipt is claimed that petitioner is without fault in not receiving the communication. In the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the Office action was not in fact received at the address of record. The requirement for an argument under 37 CFR 1.181 in addition to an explanation as to how incoming mail is handled, is that copies of the actual docket records, file jacket and/or mail logs be provided to show where the office action would have been entered had it been received. That requirement has not been met. Instead, petitioners have provided a copy of the docket record annotated with the office action printed, by petitioners, from PAIR and scanned into the system.

The instant petition establishes incoming mail procedures but petitioners have not provided copies of the actual docket records, file jacket or mail logs. In view thereof, the holding of abandonment cannot be withdrawn.

Petitioner may wish to file a petition to revive under 37 CFR 1.137(a) or (b). Section 1.137(b) now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

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

(2) the petition fee as set forth in 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 filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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

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

By FAX: (571) 273-8300

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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HOFFMAN WARNICK & D'ALESSANDRO, LLC
75 STATE STREET
14TH FLOOR
ALBANY, NY 12207

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OFFICE OF PETITIONS

In re Application of Carberry et al. :
Application No. 10/178,807 : Decision on Petition
Filing Date: June 24, 2002 :
Attorney Docket No. CHA919990007US2 :

This is a decision on the petition under 37 CFR 1.181, filed October 23, 2006, to withdraw the holding of abandonment.

The petition is **granted.**

Facts:

A final Office action was mailed September 10, 2003. The Office action stated claims 41-45 were allowed and rejected claims 46-50.

Petitioner filed a Notice of Appeal on December 11, 2003.

The Board of Patent Appeals and Interferences ("Board") issued a decision sustaining the examiner's rejections on June 28, 2006.

A Notice of Abandonment was mailed October 18, 2006.

Discussion:

37 CFR 1.197(b)(1) states,

> Proceedings on an application are considered terminated by the dismissal of an appeal or the failure to timely file an appeal to the court or a civil action (§ 1.304) except:
> (i) Where claims stand allowed in an application; or
> (ii) Where the nature of the decision requires further action by the examiner.

In the instant case, claims did stand allowed in the application. Therefore, the proceedings on the application were not terminated. In other words, the application did not become abandoned.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

MPEP 1214.06 states,

> Examiners must be very careful that case files that come back from the Board are not overlooked because every case, except applications in which all claims stand rejected after the Board's decision, is up for action by the examiner in the event no court review has been sought.... When the time for seeking court review ... has passed without such review being sought, the examiner must take up the application for consideration.

MPEP 1214.06(II) states,

> [When claims stand allowed, the] appellant is not required to file a reply. The examiner issues the application or ex parte reexamination certificate on the claims which stand allowed. If the Board affirms a rejection of claim 1, claim 2 was objected to prior to appeal as being allowable except for its dependency from claim 1 and independent claim 3 is allowed, the examiner should cancel claims 1 and 2 and issue the application or ex parte reexamination certificate with claim 3 only.

The application will be issued with the allowed claims.

Technology Center Art Unit 2616 will be informed of the instant decision and will mail a Notice of Allowance and Notice of Allowability 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

Commissioner for Patents
United States Patent and Trademark Office
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KEITH J. MURPHY
CANTOR COLBURN
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

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OFFICE OF PETITIONS

In re Application of	:	
Eric D. Pattok	:	
Application No. 10/178,869	:	ON PETITION
Filed: June 24, 2002	:	
Attorney Docket No. DP-306671	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 28, 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 September 28, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 29, 2004.

There is no indication that petitioner has submitted an Issue Fee Transmittal Form (PTOL-85b). Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, the attached Issue Fee Transmittal Form should be completed and returned to the Publishing Division within **ONE MONTH** from the mail date of this decision.

Pursuant to petitioner's authorization, Deposit Account No. 50-0831 was charged a total of $3,200.00 -- $1,500.00 for the petition to revive an unintentionally abandoned application, $1,400.00 for the issue fee and $300.00 for the publication fee.

The power of attorney, filed January 27, 2005, has not been accepted. The power of attorney is from an assignee and the Certificate required by 37 CFR 3.73(b), that must accompany any and all such filings, has not been received.

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

Attachment: PTOL-85(b)

cc: DELPHI TECHNOLOGIES, INC.
M/C 480-410-202
PO BOX 5052
TROY, MI 48007

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAR 2 3 2005
JC110
PATENT & TRADEMARK OFFICE

KEITH J. MURPHY
CANTOR COLBURN
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

COPY MAILED

MAR 1 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Eric D. Pattok	:	
Application No. 10/178,869	:	ON PETITION
Filed: June 24, 2002	:	
Attorney Docket No. DP-306671	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 28, 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 September 28, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 29, 2004.

There is no indication that petitioner has submitted an Issue Fee Transmittal Form (PTOL-85b). Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, the attached Issue Fee Transmittal Form should be completed and returned to the Publishing Division within **ONE MONTH** from the mail date of this decision.

Pursuant to petitioner's authorization, Deposit Account No. 50-0831 was charged a total of $3,200.00 -- $1,500.00 for the petition to revive an unintentionally abandoned application, $1,400.00 for the issue fee and $300.00 for the publication fee.

The power of attorney, filed January 27, 2005, has not been accepted. The power of attorney is from an assignee and the Certificate required by 37 CFR 3.73(b), that must accompany any and all such filings, has not been received.

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

Attachment: PTOL-85(b)

cc: DELPHI TECHNOLOGIES, INC.
M/C 480-410-202
PO BOX 5052
TROY, MI 48007

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 7052007

DATE : 09/22/06

TO SPE OF : ART UNIT 3735

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/178877** Patent No.: **6981947**

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

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

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

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE

3735
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,981,947 B2

APPLICATION NO.: 10/178,877

DATED : January 3, 2006

INVENTORS : Richard J. Melker, David G. Bjoraker, Samsun Lampotang

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Cover Page,

"(75) Inventor: **Richard J. Melker,** Gainesville, FL (US)" should read --(75) Inventors: **Richard J. Melker,** Gainesville, FL (US); **David G. Bjoraker,** Gainesville, FL (US); **Samsun Lampotang,** Gainesville, FL (US)--.

Column 25,

Line 62, Claim 15, "agent" should read --target substance--.

MAILING ADDRESS OF SENDER:
Saliwanchik, Lloyd & Saliwanchik
P.O. Box 142950
Gainesville, FL 32614-2950

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending on the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

AUG 31 2006

See Paper Filed 07/19/2004 for inventorship changes

Docket No.UF-270C1

DECLARATION (37 CFR 1.63) AND POWER OF ATTORNEY

As a below-named inventor, I hereby declare that:

My residence, post office address, and citizenship are as stated below next to my name; and

I believe that I am the original, first, and sole inventor (if only one name is listed below), or an original, first, and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled **METHOD AND APPARATUS FOR MONITORING RESPIRATORY GASES DURING ANESTHESIA**, specification for which

☒ is attached hereto.

☐ was filed _____, Serial No. _____.

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

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

I hereby claim foreign priority benefits under Title 35, United States Code §119 and/or §365 of any foreign application(s) for patent or inventor's certificate listed below and have also identified any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

Application Serial No.	Country	Filing Date	Priority Claimed

I hereby claim priority benefits under Title 35, United States Code §119 of any provisional application(s) for patent listed below:

Application Serial No.	Filing Date	Priority Claimed

I hereby claim the benefit under Title 35, United States Code, §120 and/or §365 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application(s) in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, §1.56(a) which became available between the filing date of the prior application and the national or PCT international filing date of this application:

Application Serial No.	Filing Date	Status (Patented, Pending, Abandoned)
10/054,619	January 22, 2002	Pending

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

I hereby appoint the following persons registered to practice before the Patent and Trademark Office as my attorneys with full power of substitution and revocation to prosecute this application and all divisions and continuations thereof and to transact all business in the Patent and Trademark Office connected therewith: David R. Saliwanchik, Reg. No. 31,794; Jeff Lloyd, Reg. No. 35,589; Doron R. Pace, Reg. No. 38,261; Christine Q. McLeod, Reg. No. 36,213; Jay M. Sanders, Reg. No. 39,355; James S. Parker, Reg. No. 40,119; Frank C. Rissenschenk, Reg. No. 45,332; Jean Kyle, Reg. No. 36,987; Seth M. Blum, Reg. No. 45,489; Glenn P. Ludwig, Reg. No. 46-853; Jon Michael Gibbs, Reg. No. 47,594; Margaret Effron, Reg. No. 47,545; William D. Sartor, Reg. No. 55,560.
I request that all correspondence be sent to:

2421 N.W. 41st Street, Suite A-1
Gainesville, FL 32606-6669

I further request that all telephone communications be directed to:

(407) 426-7500

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

JAN 28 2003

UR
PAPER NO # 6

In re Application of
James K. Kindig et al.
Serial Number: 10/178,889
Filed: June 24, 2002
For: METHOD FOR THE PRODUCTION OF HYDROGEN-CONTAINING GASEOUS MIXTURES

DECISION ON PETITION UNDER M.P.E.P. 708.02, VI

This is in response to the petition filed November 11, 2002, requesting that the above-identified application be granted Special Status under Section 708.02 (VI) 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

MARSH, FISCHMAN & BREYFOGLE LLP
3151 South Vaughn Way, Suite 411
Aurora, CO 80014

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DRW May-06

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

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MAY 0 2 2006
OFFICE OF PETITIONS

In re Application of	:	
Kang et al.	:	
Application No. 10/178,897	:	ON PETITION
Filed: 20 June, 2002	:	
Atty Docket No. GIPPL9.001APC	:	

This is a decision on the petition styled under 37 CFR 1.137(b), filed on 18 April, 2005, which in view of petitioners' statement that a response was timely filed, is first treated as a petition to withdraw the holding of abandonment of the above-identified application.

The petition to withdraw the holding of abandonment is **GRANTED**.

The petition under 37 CFR 1.137(b) is **DISMISSED AS MOOT**.

The application was held abandoned on 12 November, 2004, for failure to timely respond to the non-final Office action mailed on 11 August, 2004, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 28 March, 2005.

Petitioner asserts that an amendment and three (3) month extension of time were timely filed on 10 February, 2005, but that the amendment miscaptioned the application number by transposing two digits.

A review of the Official file reveals that the documents submitted on 10 February, 2005, have been located and have been associated with the instant application file. It is noted that the amendment and extension of time miscaption the application number as 10/178,***98***7 (emphasis added). Under current Office procedure, a response that has an incorrect serial number is handled in accordance with MPEP 508.03. If a paper having an

incorrect serial number contains sufficient information to identify the correct application and was timely received at the PTO, the holding of abandonment will be withdrawn.

The inventor's name, title of invention, filing date, attorney docket number, examiner's name, and Art Unit are correctly stated on the amendment. In reviewing the papers which were submitted, it is therefore concluded that there was sufficient information thereon to associate the papers with the instant file.
A copy of the originally filed amendment, bearing an "Office-date" stamp of 14 February, 2005, and a certificate of mailing in accordance with 37 CFR 1.8, dated 10 February, 2005, has now been placed in the present application file. Additionally, the fee extension of time filed with the response was received on 15 February, 2005. It is therefore concluded that the amendment and extension of time were timely received in the Office.

Accordingly, the holding of abandonment is withdrawn, and the Notice of Abandonment is vacated.

As the holding of abandonment is withdrawn, the petition to revive the application will be dismissed as moot. The petition fee will be credited to counsel's deposit account.

This application is being referred to Technology Center Art Unit 2635 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 11

DEC 21 2004

George A. Herbster
Suite 303
40 Beach Street
Manchester MA 01944

In re Application of:
PELLEGRINI, *et al.*
Application No. 10/178,929
Filed: June 24, 2002
Attorney Docket No.: S16-009

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a decision on the petition filed June 14, 2004, to withdraw the holding of abandonment in the above-identified application. A petition fee is not required.

The petition is granted.

The application was held abandoned for failure to respond to the Office action mailed on November 05, 2003. A Notice of Abandonment was mailed on June 10, 2004.

Petitioner asserts that on January 21, 2004, a response to the Office action of November 05, 2003, was transmitted to the United States Patent and Trademark Office (PTO), via facsimile transmission. To support this assertion, petitioner has provided a copy of the response to the Office action that includes a proper Certificate of Facsimile Transmission under 37 C.F.R. §1.8(a), a successful transmission report dated January 21, 2004, that includes a copy of the facsimile transmission cover sheet. The petition also includes a statement from the George A. Herbster, that the facsimile was transmitted to the PTO on January 21, 2004.

A review of the application file record reveals that the above-identified response is not of record in the paper application file and cannot be located. However, 37 C.F.R. § 1.8(b) provides for accepting a correspondence as being timely filed if it was mailed or transmitted in accordance with 37 C.F.R. § 1.8(a). The PTO is construing applicant's statement with respect to the transmission of the response dated January 21, 2004, as a personal knowledge statement that the above identified response was transmitted, via facsimile, in accordance with 37 C.F.R. § 1.8(a) to the PTO, on January 21, 2004.

In view of the above, the petition meets the conditions of 37 C.F.R. § 1.8(b) to establish the

previous timely filing of the response. The application is not abandoned in fact.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The copy of the response submitted with the instant petition is accepted.

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

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

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

SAG:lmm

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

KENNETH T. EMANUELSON
GARDERE WYNNE SEWELL LLP
THANKSGIVING TOWER, SUITE 3000
1601 ELM STREET
DALLAS, TX 75201-4767

MAILED

SEP 23 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re application of
David Carder et al.
Application No. 10/178942
Filed: June 24, 2002
For: MULTI-POINT CONVEYOR SYSTEM

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on January 7, 2003, under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age. The 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 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**.

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

RAR/ekn: 9/10/03

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

Edward D. Gilhooly
Ste. 423
28 East Jackson Blvd.
Chicago, IL 60604

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JAN 2 4 2003

OFFICE OF PETITIONS

In re Application of
Gerald Wilhite
Application No.10/178,944
Filed: June 24, 2002
Attorney Docket Number: 788 P 025

DECISION REFUSING STATUS
UNDER 37 C.F.R. §1.47(b)

This is in response to the petition under 37 C.F.R. §1.47(b), filed December 2, 2002 (certificate of mailing date November 25, 2002).

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 C.F.R. §1.136(a).

The above-identified application was filed on June 24, 2002, without an executed oath or declaration, and naming Gerald Wilhite as sole inventor. Accordingly, on July 25, 2002, a Notice to File Missing Parts of Application - Filing Date Granted was mailed, requiring applicant to submit an executed oath or declaration, pay a surcharge for late filing, pay the basic filing fee and provide substitute drawings. The Notice set an extendable two month period for reply.

In reply, applicant filed the instant petition (and fee), the surcharge for late filing of the declaration, a declaration, substitute drawings and the basic filing fee . To make timely a two month request for extension of time was submitted.

A grantable petition under 37 C.F.R. §1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) a showing that such action is necessary to preserve the rights of parties or to prevent irreparable damage. Rule 47 applicant has failed to establish (1), and (2).

Proof of Refusal to Sign the Oath or Declaration

As to item (1), Rule 47 applicant has failed to show that inventor Wilhite refused to sign the declaration after having been presented with the application papers. Before a refusal can be alleged, applicant must demonstrate a bona fide attempt was made to present a copy of application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. See MPEP 409.03(d). The petition does not

indicate application papers (specification, including claims, drawings, and oath or declaration) were submitted for inventor Wilhite' s review and signature. All that is indicated is that the declaration and assignment documents were submitted for Wilhite to execute.

An Acceptable Oath or Declaration

As to item (2), the title or position, residence, and citizenship of the person signing must also be stated if signing on behalf of a corporation under 37 CFR §1.47(b). See 37 CFR 1.64 and MPEP 409.03(b).

The authorization of power of attorney has been entered and made of record.

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

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

Telephone inquiries regarding this decision should be directed to Petitions Attorney Charlema R. Grant at (703) 305-0309.

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

Charlema R. Grant
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. 11

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MAY 15 2003

OFFICE OF PETITIONS

Edward D. Gilhooly
Ste. 423
28 East Jackson Blvd.
Chicago, IL 60604

In re Application of
Gerald Wilhite
Application No.10/178,944
Filed: June 24, 2002
Attorney Docket Number: 788 P 025

DECISION REFUSING STATUS
UNDER 37 C.F.R. §1.47(b)

This is in response to the renewed petition under 37 C.F.R. §1.47(b), filed April 28, 2003 (certificate of mailing date April 21, 2003).

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 C.F.R. §1.136(a).

The above-identified application was filed on June 24, 2002, without an executed oath or declaration, and naming Gerald Wilhite as sole inventor. Accordingly, on July 25, 2002, a Notice to File Missing Parts of Application - Filing Date Granted was mailed, requiring applicant to submit an executed oath or declaration, pay a surcharge for late filing, pay the basic filing fee and provide substitute drawings. The Notice set an extendable two month period for reply.

In reply, applicant filed the instant petition (and fee), the surcharge for late filing of the declaration, a declaration, substitute drawings and the basic filing fee . To make timely a two month request for extension of time was submitted. A petition under 37 CFR 1.47(b) was dismissed on January 24, 2003.

A grantable petition under 37 C.F.R. §1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) a showing that such action is necessary to preserve the rights of parties or to prevent irreparable damage. Rule 47 applicant has failed to establish (2).

An Acceptable Oath or Declaration

As to item (2), the title or position of the person signing must also be stated if signing on behalf of a corporation under 37 CFR §1.47(b). See 37 CFR 1.64 and MPEP

409.03(b)(A). [1]

The Office is in receipt of the assertion of small entity status. The change in status to small entity has been entered and made of record.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(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 regarding this decision should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

---

[1]Where an application is executed by one other than the inventor, the declaration required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the nonsigning inventor. Also, the title or position of the person signing must be stated if signing on behalf of a corporation under 37 CFR 1.47(b).
(B) The 37 CFR 1.47(b) applicant must state his or her relationship to the inventor as required by 37 CFR 1.64. See MPEP 409.03(b)(a).

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Paper No. 13

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JUL 28 2003

OFFICE OF PETITIONS

Edward D. Gilhooly
Ste. 423
28 East Jackson Blvd.
Chicago, IL 60604

In re Application of
Gerald Wilhite
Application No.10/178,944
Filed: June 24, 2002
Attorney Docket Number: 788 P 025
Title of Invention: DEPRESSURIZING PUMP ASSEMBLIES AND CLOSURES FOR BEVERAGE CONTAINER

DECISION ACCORDING STATUS UNDER 37 C.F.R. §1.47(b)

This is in response to the renewed petition for status under 37 C.F.R. §1.47(b), filed July 9, 2003.

The petition is **GRANTED**.

The above-identified application was filed on June 24, 2002, without an executed oath or declaration, and naming Gerald Wilhite as sole inventor. Accordingly, on July 25, 2002, a Notice to File Missing Parts of Application - Filing Date Granted was mailed, requiring applicant to submit an executed oath or declaration, pay a surcharge for late filing, pay the basic filing fee and provide substitute drawings. The Notice set an extendable two month period for reply. Petitions under 37 CFR 1.47(b) were dismissed on January 24, 2003 and May 15, 2003.

Applicant has satisfied the requirements of §1.47(b)[1]. Applicant, by declaration of persons with first hand knowledge and documentary evidence, demonstrated that the non-signing inventor have been presented with a copy of the application papers for signature and that he has refused by his conduct to sign the declaration. Applicant submitted the declaration of Donald Saller, President of Jokari/US Inc., applicant corporation. The declaration has been reviewed and is found in compliance with 37 CFR 1.63. Applicant paid the petition fee and included a statement of the non-signing inventor's last known address in the petition. The assignment establishes the applicant's proprietary interest in the application.

This application is hereby accorded Rule 1.47(b) status.

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

---

[1] A grantable petition under 37 C.F.R. §1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) proof of irreparable damage.

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

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/178,945	06/24/2002	Janet K. Robertson	4876-000001

CONFIRMATION NO. 1832

OC000000018635712

OC000000018635712

27572
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

Date Mailed: 04/27/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/05/2005.

- 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.

IRVIN DINGLE
OP (571) 272-3210

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 6

MAIL

MAR 2 9 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Craig N. Killen
Nelson Mullins Riley & Scarborough
P.O. Box 11070
Columbia SC 29211

In re Application of	)	
Piner, et al.	)	
Application No. 10/178,948	)	DECISION ON REQUEST TO
Filed: June 24, 2002	)	WITHDRAW FROM RECORD
For: HOTEL COMPUTER NETWORKING SYSTEM	)	

This is a decision on the Request for Withdrawal as attorney or agent and change of address filed on March 2, 2004.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All attorneys/agents of record are withdrawn.

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

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

CC: Power-Linx, Inc.
Attn: Don Gleason
3926 Wesley St., #304
Myrtle Beach, SC 29579

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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WARD & OLIVO
382 SPRINGFIELD AVENUE, SUITE 300
SUMMIT, NJ 07901

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NOV 09 2007

OFFICE OF PETITIONS

In re Application of :
Melvin A. Park et al :
Application No. 10/178,951 :
Filed: June 24, 2002 :
Attorney Docket No. 140 - 085 :

ON PETITION

This is a decision on the petition filed July 30, 2007 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed March 9, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 10, 2007.

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

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

This matter is being referred to the Publishing Division 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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Paul B. Campbell, Jr.
Botetourt County
271 Laymantown Rd.
Troutville VA 24175-6715

COPY MAILED

JAN 17 2006

OFFICE OF PETITIONS

In re Application of Paul B. Campbell, Jr. Application No. 10/178,978 Filed: June 25, 2002 Title: Operating System for Hydraulic Rock Drill	: : : : : :	DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on November 2, 2005, to revive the above-identified application.

The application became abandoned on April 27, 2005, for failure to file a proper and timely response to the final Office action mailed on January 26, 2005, which set a three (3) month shortened statutory period for reply. Petitioner filed an amendment in response to the final Office action on April 26, 2005. On May 19, 2005, the examiner mailed an Advisory Action, stating that the amendment did not *prima facie* place the application in condition for allowance. On August 1, 2005, petitioner filed a RCE and an amendment, and paid the required fee. On October 19, 2005, the Office mailed a Notice of Abandonment.

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

This matter is being referred to Technology Center 3721.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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)
6626630	2003-09-30	10178985	2002-06-24	10124-1510

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	/George M. Thomas/	Date (YYYY-MM-DD)	2008-05-19
Name	George M. Thomas	Registration Number	22260

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
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In re Patent No. 6626630
Issue Date: September 30,2003
Application No. 10178985
Filed: June 24,2002
Attorney Docket No. 1573 (AMF)

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080711

DATE : June 09, 2008

TO SPE OF : ART UNIT 2128

SUBJECT : Request for Certificate of Correction on Patent No.: 7,343,590

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

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

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

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

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

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

Comments:

SPE: /Kamini Shah/ Art Unit 2128

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Paper No. 10

MCKENNA LONG & ALDRIDGE
SONG K. JUNG
1900 K STREET, N.W.
WASHINGTON, DC 20006

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MAY 1 8 2004
OFFICE OF PETITIONS

In re Application of	:	
Myung Cheol Yoo	:	
Application No. 10/179,010	:	ON PETITION
Filed: June 26, 2002	:	
Attorney Docket No. 9323.007.00-US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 10, 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 February 12, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 13, 2003.

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 2814.

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
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Paper No. None

MCKENNA LONG & ALDRIDGE LLP
Song K. Jung
1900 K Street, N.W.
Washington DC 20006

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JAN 20 2006
OFFICE OF PETITIONS

In re Application of Myung Cheol Yoo Application No. 10/179,010 Patent No. 6,841,802 Filed: June 26, 2002 Issue Date: January 11, 2005 Attorney Docket Number: 9323.007.00-US Title: THIN FILM LIGHT EMITTING DIODE	DECISION ON PETITION UNDER 37 C.F.R. §3.81(B)

This is a decision on the petition filed September 28, 2005 under 37 C.F.R. §1.323, which is properly treated as a petition 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 states that the present patent is "is now subject to a new assignment[2]," and requests that a Certificate of Correction be issued identifying this assignee. Petitioner submits a "Certificate of Correction" for this purpose, which lists the assignee's name as "LG Electronics Inc., Seoul (KR)."

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

(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

1 See Official Gazette, June 22, 2004.
2 Petition, page 1.

forth in 3.11 before issuance of the patent, and must include a request for a certificate of correction under 1.323 of this chapter (accompanied by the fee set forth in 1.20(a)) and the processing fee set forth in 1.17(i) of this chapter.

The processing fee of $130 which is associated with this request has been charged to Petitioner's Deposit Account, as authorized in the petition.

Office records do not show that an assignment to LG Electronics, Inc. was ever submitted for recording in the Office. It is noted that Petitioner has failed to include a copy of this assignment. Furthermore, the language "is now subject to a new assignment" suggests that this assignment occurred after the issuance of the patent.

As such, Petitioner cannot meet the requirements of 37 C.F.R. §3.81(b).

Hence, the petition is **DISMISSED.**

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. 3.81(b)". This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski. Any renewed petition may be submitted by mail[3], hand-delivery[4], or facsimile[5].

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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JUN 24 2008

OFFICE OF PETITIONS

In re Application of	:	
Nishimura et al.	:	
Application No. 10/179,026	:	LETTER REGARDING PTA
Filed: June 26, 2002	:	
Attorney Docket No.	:	
059729-0120	:	

This letter is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT", filed on June 27, 2007. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. §154(b) be reviewed for accuracy.

The request for correction of the patent term adjustment (PTA) is **DISMISSED**.

On June 6, 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 nine hundred forty (940) days.

Applicants filed the instant "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT" on June 27, 2007.

The Office determined a patent term adjustment of nine hundred forty (940) days based on an adjustment for PTO delay of eight hundred nineteen (819) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. §1.703(a)(1) and one hundred forty-three (143) days pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. § 1.703(a)(3) reduced by twenty-two (22) days of applicant delay pursuant to 35 U.S.C. 154(b)(2)(C)(i) and 37 C.F.R. §1.704(b).

Applicant states no basis for the request for review of the patent term adjustment.

Upon review, the patent term adjustment calculations are correct.

As this letter was submitted as an advisement to the Office of an error in applicants' favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

The application is being referred to the Office of Data Management.

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

#15

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

FEB 0 6 2004

Office of the Director
Group 3600

Song Zhu
Crowell & Moring, LLP
Intellectual Property Group
P.O. Box 14300
Washington, DC 20044-4300

In re Application of	:	**DECISION ON PETITION**
Frank Amrhein	:	**FROM REQUIREMENT**
Application No. 10/179,032	:	**FOR RESTRICTION**
Filed: June 26, 2002	:	**UNDER 37 CFR 1.144**
Attorney Docket No. 225/51310	:	

This is a decision on the Petition from Requirement for Restriction filed December 1, 2003, under 37 CFR § 1.144 requesting withdrawal of the restriction requirement set forth in the Office action mailed May 8, 2003.

The petition to is **DENIED.**

A review of the application file history reveals that the Office action of May 8, 2003, set forth a restriction requirement between claims 1-17, drawn to a fastening device, and claim 18, drawn to a method of using a fastening device. The method claim was withdrawn from consideration when applicant elected the product claims, with traverse. The examiner, upon reconsideration, maintained the restriction requirement in the following Office action and made the requirement final. This petition was then timely filed.

In the restriction requirement set forth on May 8, 2003, in support of the Examiner's contention that other devices could be used to practice the process as claimed, the Examiner stated "In the instant case any other type of linear drive could be used in this manner." Applicant argues that the grounds for restriction requirement are improper because " claims 1-17 were not even directed to a linear drive." Applicant's argument is *inapposite.*

MPEP § 806.05(h) sets forth the grounds for restriction between inventions that are related as product and process of use as follows:

> A product and a process of using the product can be shown to be distinct inventions if either or both of the following can be shown: (A) the process of using as claimed can be practiced with another materially different product; or (B) the product as claimed can be used in a materially different process. The burden is on the examiner to provide an example, but the example need not be documented. If the applicant either proves or provides a convincing argument that the alternative use suggested by the

examiner cannot be accomplished, the burden is on the examiner to support a viable alternative use or withdraw the requirement.

A proper restriction requirement between product and process of use requires one-way distinctness. In other words, if either condition A or condition B is satisfied, then the grounds for restriction are proper. In the instant application condition A is satisfied. The process of using as claimed can be practiced with another materially different product, a linear drive that is fastened in an installation position by a fastening device having other configurations than U-shaped or L-shaped. Thus, the inventions are distinct and the restriction requirement is proper.

For the foregoing reasons, the examiner's restriction requirement was clearly proper and the petition is denied.

Donald T. Hajec, Director
Technology Center 3600
(703) 306-4180
Facsimile: (703) 306-4598

lhb/snm : January 6, 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 9

TEXAS INSTRUMENTS INCORPORATED
P.O. BOX 655474, M/S 3999
DALLAS, TX 75265

COPY MAILED

MAR 3 1 2004

OFFICE OF PETITIONS

In re Application of	:	
Takahiro Miyazaki	:	
Application No. 10/179,051	:	ON PETITION
Filed: June 25, 2002	:	
Attorney Docket No. TIJ-32723	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 20, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 8, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 9, 2003.

Pursuant to petitioner's authorization, Deposit Account No. 20-0668 was charged $1,330.00 for the petition to revive an unintentionally abandoned application.

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

The application file is being forwarded to Technology Center AU 2838.

Wan Laymon
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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/179,055	06/25/2002	2873	435	MIT.9300	3	18	3

CONFIRMATION NO. 5620

CORRECTED FILING RECEIPT

OC000000015022360

Matthew E. Connors
Gauthier & Connors LLP
Suite 3300
225 Franklin Street
Boston, MA 02110

Date Mailed: 01/25/2005

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)

Leslie S. S. Loo, Cambridge, MA;
Michal Lipson, Itlaca, NY;
Karen K. Gleason, Lexington, MA;
Lionel C. Kimerling, Concord, MA;

Power of Attorney:

Matthew Connors–33298

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/300,679 06/25/2001

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 US10/179,055

Projected Publication Date: 03/10/2005

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

Air gaps for optical applications

Preliminary Class

359

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

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATEN
UNITED STATES PATENT AND TRADEMARK OFFI
WASHINGTON, D.C. 2023
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DEC 2 4 2002

Technology Center 2100

Paper No. 4

Bruce E. Lilling
Lilling & Lilling P.C.
P.O.Box 560
Goldens Bridge, New York 10526

In re Application of: Ram J. Balani	)	**DECISION ON PETITION**
Application No.: 10/179,056	)	**UNDER 37 C.F.R. § 1.102 (d)**
Filed: June 25, 2002	)	**AND M.P.E.P. § 708.02 (XI)**
For: METHOD AND DEVICE FOR	)	**INVENTIONS FOR**
EFFECTING VENUE SPECIFIC	)	**COUNTERING TERRORISM**
WIRELESS COMMUNICATION	)	

This is a decision in response to the petition filed June 25, 2002 under 37 C.F.R. 1.102 (d) and MPEP. § 708.02 (XI): Inventions for Countering Terrorism, to make the above identified application special.

The petition is **DISMISSED**.

MPEP § 708.02(XI), which sets out the prerequisites for a grantable petition for Inventions for Countering Terrorism" under 37 C.F.R. § 1.102(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 kidnaping..." 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 U.S. 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 MPEP § 708.02(XI). The disclosed invention is generally directed to a system for wireless communications between a wireless, portable communication device at a specific venue and an Internet based server for accessing venue for accessing or location specific information. Note there is no mention of terrorist activity in the disclosure. Wireless communication for use at a specific venue and interconnection with other users at the venue does not directly prevent "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". While petitioner has provided

a statement explaining how the invention contributes to countering terrorism "by allowing law enforcement official and federal agents to create a virtual community of the venue to be protected , and for them to be able to quickly obtain on their wireless hand held communication devices venue specific information in real-time"; the apparent "obtaining venue specific information data in real-time", while important, does not rise to the level of acts intended to intimidate or coerce a civilian population; to influence the policy of a government by intimidation or coercion; or to affect the conduct of a government by assassination or kidnaping. In addition, such a system as proposed by applicant may actually facilitate a cell of terrorists trying to coordinate their activities in a particular venue because of its design of providing "an intelligent way to network at a specific local venue." (See page 3, lines 5-6, for example.) Thus the invention could be an aid to terrorism or criminal activity.

As a result, no advancement in the technology of countering terrorism has been persuasively shown. The petition is **DISMISSED**.

Any request for reconsideration must be filed within TWO MONTHS of the mailing date of this decision. It is suggested that applicant review MPEP § 708.02 regarding other grounds available for filing a petition to make special. In particular, note MPEP § 708.02 (VIII): Accelerated Examination, which does not place limitations on the subject matter of the application.

The application is being forwarded to Technology Center 2100's Central Files to await examination in its proper turn based on its effective filing date. Telephone inquiries regarding this decision should be directed to the undersigned at 703-305-9750.

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Security, Architecture, and Software

MAB

UNITED STATES PATENT AND TRADEMARK OFFICE

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JAGTIANI + GUTTAG
10363-A DEMOCRACY LANE
FAIRFAX, VA 22030

COPY MAILED

NOV 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Ram Jethanand Balani	:	
Application No. 10/179,056	:	ON PETITION
Filed: June 25, 2002	:	
Attorney Docket No. 580/1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 6, 2007, to revive the above-identified application.

The petition is **GRANTED**.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed 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 (571) 272-3210.

This matter is being referred to Technology Center AU 2141 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Karl F. Milde, Jr.
Milde & Hoffberg, LLP
10 Bank St., Ste. 460
White Plains, NY 10606

OIPE IAP83
NOV 29 2007
PATENT & TRADEMARK OFFICE

IFW

BALANI 201-KFM

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	RAM JETHANAND BALANI
Serial No.	:	10/179,056
Filed	:	JUNE 25, 2002
For	:	METHOD AND DEVICE FOR EFFECTING VENUE SPECIFIC WIRELESS COMMUNICATION
Art Unit	:	2141
Examiner	:	BRADFORD F. FRITZ
Customer No.	:	010037

November 26, 2007

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

Sir:

TRANSMITTAL LETTER

Transmitted herewith are copies of the following documents:

Decision of Petition dated November 19, 2007.

Power of Attorney dated July 5, 2007.

Fax cover sheet dated July 13, 2007 together with fax history report indicating that the 3 page telefax was received by the U.S. Patent and Trademark Office on that date.

It is requested that the papers submitted herewith be joined up with the papers previously filed in this application.

Respectfully submitted,

By _____
Karl F. Milde, Jr.
Reg. No. 24,822

MILDE & HOFFBERG, LLP
10 Bank Street - Ste. 460
White Plains, NY 10606

(914) 949-3100

I hereby certify that this correspondence is being deposited with the United States Postal Services as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria. VA 22313-1450 on

NOVEMBER 26, 2007
MILDE & HOFFBERG, LLP

BY _____

Date NOVEMBER 26, 2007

MJ

BALANI 201

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JAGTIANI + GUTTAG
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FAIRFAX, VA 22030

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OFFICE OF PETITIONS

In re Application of	:	
Ram Jethanand Balani	:	
Application No. 10/179,056	:	ON PETITION
Filed: June 25, 2002	:	
Attorney Docket No. 580/1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 6, 2007, to revive the above-identified application.

The petition is **GRANTED**.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed 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 (571) 272-3210.

This matter is being referred to Technology Center AU 2141 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Karl F. Milde, Jr.
Milde & Hoffberg, LLP
10 Bank St., Ste. 460
White Plains, NY 10606

O I P E IAP83
NOV 29 2007
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MILDE & HOFFBERG, LLP
COUNSELORS IN INTELLECTUAL PROPERTY LAW
10 BANK STREET, SUITE 460
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KARL F. MILDE, JR.
STEVEN M. HOFFBERG[1]
OF COUNSEL:
CHERYL H. AGRIS, Ph.D.[2]
PAUL S. HOFFMAN
NANCY A. BIRD
HAROLD L. BURSTYN, Ph.D.[3]

[1] ALSO ADMITTED IN CT
[2] ALSO ADMITTED IN NJ
[3] ALSO ADMITTED IN FL

VIA TELEFAX

FAX NO. 1-571-273-3860

TO: COMMISSIONER FOR PATENTS
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

ART UNIT : 2141 EXAMINER: B. Fritz

CASE NO. : Balani 201-KFM SERIAL NO.: 10/179,056

TOTAL NO. OF PAGES (INCLUDING THIS PAGE): 3

DESCRIPTION:

POWER OF ATTORNEY - 2 PGS

MILDE & HOFFBERG, LLP

By _____
Karl F. Milde, Jr.
Reg. No. 24,822

I hereby certify that this paper, 3 pages, is being facsimile transmitted to the Patent and Trademark Office on the date shown below.

JULIANN GADDY
Name (Type or Print)

_____ Signature

JULY 13, 2007
Date

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Fax-History Report for
Milde & Hoffberg, LLP
(914) 949-3416
Jul 13 2007 12:31pm

Last Fax

Date	Time	Type	Identification	Duration	Pages	Result
Jul 13	12:30pm	Sent	15712733860-500	0:50	3	OK

Result:
OK - black and white fax
Okay color - color fax

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NOV 1 0 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Scott V. Lundberg, Esq.
13740 Nueman Circle
Lindstrom MN 55045

In re Application of
Larry Allan Holmberg
Application No. 10/179,070
Filed: June 25, 2002
For: **ATTACHMENT SYSTEM FOR A VIDEO CAMERA HOUSING**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed January 15, 2004 and supplemented on October 26, 2004, pursuant to 37 CFR §1.102(d) and MPEP §708.02, section II (Infringement), to make the 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 a copy of each of the references deemed most closely related to the subject matter encompassed by the claims if the references are not already of record.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

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

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

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : July 25, 2008

TO SPE OF : ART UNIT 2622

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/179070 Patent No.: 7327394 B2

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

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

❑ **Approved**	**All** changes apply.
❑ **Approved in Part**	Specify below which changes **do not** apply.
xDenied	State the reasons for denial below.

Comments: The term "control" in claim 4, line 4, col. 8 should not be changed to --cable-- because the change would cause the antecedent basis problem to claims 5-8.

For the reasons, the correction is denied to enter.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Sinh Tran/ _____ _AU
2622_____

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date Mailed : 07/31/08

Patent No. : 7327394 B2
Patent Issued : 02/05/08
Docket No. : **HLMBL004USPT03**

Re: Request for Certificate of Correction

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

Respecting the alleged errors in the documents filed on 07/10/08; please see attachment. **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

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

Lamonte M. Newsome

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703)-308-9390 #112

SHERRILL LAW OFFICES
4756 BANNING AVE
SUITE 212
WHITE BEAR LAKE MN 55110-3205

LMN

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FEB 9 2005

Paper No. 012805

Robert A. Van Someren
Fletch, Yoder & Van Someren
PO Box 692289
Houston, TX 77269-2289

In re Application of:	:	
Siverling et al.	:	
Serial No.: 10/179,085	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Filed: June 25, 2002	:	
Attorney Docket No.: **TUUL:0002**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed November 8, 2004.

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

The request meets all the above stated requirements. The request was signed by Tait R. Swanson. The request is **APPROVED**.

It is noted that the application is now abandoned. There are no attorneys of record at this time. All future communications from the Office will be directed to the inventor, David E. Siverling, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Edward Westin at (571) 272-1638.

Edward Westin

Edward Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: David E. Siverling
Energy Tubular
9200 Sheldon Rd.
Houston, TX 77049

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THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

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MAR 23 2006

OFFICE OF PETITIONS

In re Application of	:	
Glen Charles Fedyk, et. al.	:	
Application No. 10/179,087	:	ON PETITION
Filed: June 25, 2002	:	
Attorney Docket No. 8986	:	

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on December 28, 2005, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) due mailed September 20, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $1,400 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to the Office of Publications for review of the eight (8) sheets of replacement drawings, containing Figures 1-18, filed October 28, 2005.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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 55402-0938

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APR 2 9 2005

OFFICE OF PETITIONS

In re Application of	:
Paul A. Farrar	:
Application No. 10/179,091	: DECISION GRANTING PETITION
Filed: June 24, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 303.610US3	:

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 14, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2826 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.[2]

Frances Hicks

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

---

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

[2] Receipt is also acknowledged of the "Communication Concerning Related Applications."

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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SEP 21 2005

OFFICE OF PETITIONS

In re Application of :
Dragan Boscovic, et al. :
Application No. 10/179,098 :
Filed: June 25, 2002 :
Attorney Docket No. CE00520UM :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 10, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 1, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 3, 2005.

The petition satisfies the requirement of 37 CFR 1.137 (b) in that petitioner has supplied (1) the reply in the form of an Amendment; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the petition filed June 10, 2005 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter is being referred to Technology Center 2600, Art Unit 2684 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
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DEC 02 2004

Paper No. 12

Nawrocki, Rooney & Sivertson, P.A.
Suite 401, Broadway Place East
3433 Broadway Street Northeast
Minneapolis, MN 55413

In re Application of Mark J. Whalen et al Serial No. : 10/179,108 Filed : June 24, 2002 For : Urethral Profiling Device & Methodology	: DECISION ON PETITION : TO WITHDRAW : HOLDING OF : ABANDONMENT

This is a decision on petitioner's request filed August 20, 2004, to review the holding of abandonment mailed August 3, 2004, for failure to pay the issue fee as required in the Notice of Allowability and the Notice of Allowance and Fee(s) Due mailed March 22, 2004. The basis for the request is that applicant did not receive the communication mailed March 22, 2004. There is no fee required for this petition.

In order to overcome the presumption of delivery of an Office action, a practitioner must submit the following: (1) a statement from the practitioner stating that the Office action was not received by practitioner; (2) a statement attesting to the fact that a search of the file jacket and docket record indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received and docketed. See 1156 OG 53.

The request filed August 20, 2004 includes all the above elements. The request is therefore GRANTED. Upon the mailing of this decision, the application will be forwarded to the Legal Instruments Examiner for the mailing of a new Notice of Allowance and Fee(s) Due with a copy of the Notice of Allowability that was mailed March 22, 2004.

Summary: Holding of Abandonment Withdrawn.

John E. Kittle, Director
Groups 3730 and 3760
Phone: (571) 272-2975

ak/11/24/04

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. 6

THOMAS E. KOCOVSKY, JR.
1100 SUPERIOR AVENUE
SEVENTH FLOOR
CLEVELAND, OH 44114-2518

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DEC 0 3 2002

OFFICE OF PETITIONS

In re Application of	:	
Lionel Symoen	:	
Application No. 10/179,120	:	NOTICE
Filed: June 25, 2002	:	
Attorney Docket No. GSQ 2 0047	:	

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

Mail Date: 04/26/2010

Applicant	: James A. Proctor JR.	: DECISION ON REQUEST FOR
Patent Number	: 7602749	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/179,121	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/24/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1385** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

JUDITH A. SZEPESI
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
SEVENTH FLOOR
12400 WI.SHIRE BOULEVARD
LOS ANGELES, CA 90025-1026

In re Application of	:	
Victor Chau, et al.	:	
Application No. 10/179,128	:	DECISION ON PETITION
Filed: June 24, 2002	:	TO WITHDRAW
Attorney Docket No. 536.P089	:	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 **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Blakely, Sokoloff, Taylor & Zafman, LLP has been revoked by the assignee of the patent application on September 11, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to 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
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/179,128	06/24/2002	Victor Chau	536.P089

CONFIRMATION NO. 6046

OC000000022337895

OC000000022337895

Judith A. Szepesi
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

Date Mailed: 02/05/2007

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).

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

SPE: D. Ometz

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/20/07

TO SPE OF : ART UNIT 2622

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/179,216 Patent No.: 7006148

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

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

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

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

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE

2622
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

In re Patent No. 7,006,148

Issue Date: February 28, 2006

Application No. 10/179,216

Filed: June 26, 2002

Attorney Docket No. **Q70768**

ON PETITION

This is a decision on the petition filed March 12, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee data on the front page of the above-identified patent and other typographical errors by way of Certificate of Correction.

The request is **granted**.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3222. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 6

A Wen Yu
235 Chung-Ho
Box 8-24
Taipei TW
TAIWAN

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APR 23 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of	:
A Wen Yu	:
Application No. 10/179,260	:
Filed: June 26, 2002	:
For: CONNECTION OF SOUND BOWL OF LOUDSPEAKER	:

This is a decision on the petition under 37 CFR 1.137(a), filed March 31, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

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

Petitioner is under the impression the application became abandoned because the Office did not receive petitioner's June 2003 amendment. However, the amendment was received.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 20, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 21, 2003. A Notice of Abandonment was mailed on March 3, 2004.

A grantable petition under 37 CFR 1.137(a) must be accompanied by:
(1) the required reply,
(2) the petition fee,
(3) a showing <u>to the satisfaction of the Commissioner</u> that the <u>entire</u> 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 <u>unavoidable</u>, and
(4) a terminal disclaimer and fee *if* the application was filed on or before June 8, 1995 or *if* the application is a design application.

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

As to item (1), petitioner should file a reply to the attached August 20, 2003 Office action.

As to item (3), the Office will interpret petitioner's statements as an allegation that the August 20, 2003 Office action was never received.

In the absence of any irregularity in the mailing of the Office action, there is a strong presumption that the Office action was properly mailed. In order to overcome this presumption, petitioner should supply evidence to establish that the Office action was not lost after it was delivered. Petitioner should discuss who handles the mail? Is the mail handled by several individuals or just petitioner? Is all mail related to the instant application kept in one location? If yes, has a search of that location been performed?

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

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

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

By hand:[1] U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

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

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

Attached: Copy of August 20, 2003 Office action

[1] This address should be used by hand couriers such as Federal Express, UPS, etc.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 11

A Wen Yu
235 Chung-Ho
Box 8-24
Taipei TW
TAIWAN

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OCT 0 4 2004

OFFICE OF PETITIONS

In re Application of :
A Wen Yu :
Application No. 10/179,260 :
Filed: June 26, 2002 :
For: CONNECTION OF SOUND BOWL OF LOUDSPEAKER :

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(a), filed June 24, 2004, 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.[1]

The petition under 37 CFR 1.137(a) is **DISMISSED**.

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

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)" or "Renewed Petition under 37 CFR 1.181."

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 20, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 21, 2003. A Notice of Abandonment was mailed on March 3, 2004.

A grantable petition under 37 CFR 1.137(a) must be accompanied by a showing <u>to the satisfaction of the Commissioner</u> that the <u>entire</u> 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 <u>unavoidable</u>. Proof of non-receipt of the Office action would constitute a sufficient showing.

In order for a petition to withdraw the holding of abandonment to be granted based on these facts, petitioner must prove non-receipt of the Office action.

As seen above, if relief is pursued under 37 CFR 1.137(a) or 37 CFR 1.181, petitioner must prove non-receipt of the Office action.

---

[1] Although the paper in entitled "RENEWED PETITION UNDER 37CFR1.137(a)," the petition requests that the holding of abandonment be withdrawn.

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.

However, this presumption can be overcome.

In order to overcome this presumption, petitioner should supply evidence to establish that the Office action was not lost after it was delivered.

The evidence should not be provided to prove 100% that the mail was not delivered since such proof is impossible as stated by petitioner. The purpose of the evidence is to show that it is more likely than not that the mail was lost by the Postal Service than lost by petitioner.

Examples of the type evidence petitioner may wish to submit: Who handles incoming mail at the address of record? Is the mail handled by several individuals or just petitioner? Is all mail related to the instant application kept in one location? If yes, has a search of that location been performed?

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

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

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

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

Telephone inquiries may be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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A Wen Yu
235 Chung-Ho
Box 8-24
Taipei TW
TAIWAN

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JUN 0 7 2005

OFFICE OF PETITIONS

In re Application of :
A Wen Yu :
Application No. 10/179,260 :
Filed: June 26, 2002 :
For: CONNECTION OF SOUND BOWL OF LOUDSPEAKER :

ON PETITION

This a decision on the petition under 37 CFR 1.137(b), filed March 2, 2005, to revive the above-identified application.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 20, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 21, 2003. A Notice of Abandonment was mailed on March 3, 2004.

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

Technology Center Art Unit 2837 will be informed the application has been revived and the examiner will consider the amendment filed March 2, 2005, in due course.

Telephone inquiries may be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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June 29, 2006

FILE COPY

Patent No. : 6,879,321 B2
Ser. No. : 10/179266
Inventor(s) : Santou
Issued : April 12, 2005
Title : **DISPLAY POSITION CONTROL APPARATUS**
Docket No. : Q70417

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
40l Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
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.

Elisha Evans
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110 or (703) 308-8309

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

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OFFICE OF PETITIONS

In re Patent No. 6,879,321 :

Issue Date: April 12, 2005 :

Application No. 10/179,266 : ON PETITION

Filed: June 26, 2002 :

Attorney Docket No. Q70417

This is a decision on the petition filed June 21, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **granted**.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR NY 10510

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APR 2 0 2007

OFFICE OF PETITIONS

In re Application of	:	
Jeff **BENNETT**	:	
Application No. 10/179,317	:	DECISION ON PETITION
Filed: June 24, 2002	:	
Attorney Docket No. US 020210	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 11, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before September 12, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed June 12, 2006 . Accordingly, the date of abandonment of this application is September 13, 2006 .

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1400 and the publication fee of $300, (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

Since the $1400 issue fee and $300 publication fee submitted on December 11, 2006 are duplicates of issue fee and publication fee charged on September 14, 2006, these fees are unnecessary and will be credited to petitioner's deposit account.

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

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

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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JUN 04 2007

DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK NY 10150-5257

In re Application of: NOZAKI, SATOSHI et al Serial No.: 10/179,321 Filed: Jun. 24, 2002 Docket: 2309/0L604 Title: SANITARY NAPKIN	DECISION ON PETITION TO WITHDRAW PREMATURELY ISSUED OFFICE ACTION

This is a decision on the petition filed on Aug. 12, 2005 to withdraw the prematurely issued Office action of Jun. 14, 2005. The petition is being considered pursuant to 37 CFR 1.181 and no fee is required for the petition.

The petition is **DISMISSED as moot**.

In the petition the applicant requested withdrawal of the prematurely issued Office action dated Jun. 14, 2005 because applicant had properly filed on May 13, 2005 an RCE and a request of suspension of action for three months with the requisite fee under 37 CFR 1.103(c).

The record shows that:

1) In response to a non-final Office action, on Oct. 26, 2004, the applicant filed an amendment to claims 1, 6, 9 and 11.
2) On Jan. 13, 2005, the examiner issued a final Office action with new grounds of rejection because the new grounds of rejection were necessitated by the amendment filed on Oct. 26, 2004.
3) In response to the final Office action of Jan. 13, 2005, the applicant filed a response under 37 CFR 1.116 on Apr. 7, 2005.
4) After consideration of the applicant's response filed under 37 CFR 1.116, on May 3, 2005, the examiner issued an advisory action maintaining the grounds of rejection in the final Office action of Jan. 13, 2005.
5) On May 13, 2005, the applicant filed an RCE for further continuing examination of the application. In addition, applicant requested a 3 month suspension of action in the application under 37 CFR 1.103(c).
6) On Jun. 14, 2005, the examiner withdrew finality of the final Office action of Jan. 13, 2005 and issued a non-final Office action.
7) On Aug. 12, 2005, the applicant filed an amendment to claim 1 and presented new claims 16-20. Concurrently with the amendment filed Aug. 12, 2005, the applicant

filed the current request to withdraw the prematurely issued Office action of Jun. 14, 2005.

8) On Feb. 13, 2006, the examiner issued a second non-final Office action with new grounds of rejection.

In view of the prosecution history, the relief the applicant requested, namely the withdrawal of the prematurely issued Office Action of Jun. 14, 2005, has already occurred with the issuance of a second non-final Office action on Feb. 13, 2006 which is more than three months after the RCE and the three month request of suspension of action on May 13, 2005. Accordingly, the petition is dismissed as moot.

Any inquiry regarding this decision should be directed to Marc Jimenez, Training Quality Assurance Specialist, at (571) 272-4530.

Karen M. Young

for Frederick R. Schmidt, 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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Flynn Barrison
DARBY & DARBY P.C.
P.O. Box 5257
New York, NY 10150-5257

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OFFICE OF PETITIONS

In re Patent No. 6,809,942 :
Issue Date: October 26, 2004 :
Application No. 10/179,325 : ON PETITION
Filed: June 24, 2002 :
Attorney Docket No. 0152/0L601 :

This is a decision on the petition filed December 22, 2004, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is GRANTED.

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

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Questions regarding the certificate of correction should be directed to Certificate of Corrections Branch at (703) 305-8347 or (703) 305-8228.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 10/179 330

DATE 9/4/07

TO SPE OF : ART UNIT 3641

SUBJECT : Request for Certificate of Correction on Patent No.: 6837139

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

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

Thank You For Your Assistance

ERNEST C. WHITE, LIE
Certificates of Correction Branch

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

Note your decision on the appropriated box.

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

Comments:

MICHAEL J. CARONE
SUPERVISORY PATENT EXAMINER

SPE: Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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JONATHAN M. WALDMAN
WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE – 46TH FLOOR
PHILADELPHIA, PA 19103

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JUN 15 2006

OFFICE OF PETITIONS

In re Application of	:	
Maria Adamczyk et al	:	
Application No. 10/179,332	:	DECISION ON PETITION
Filed: June 24, 2002	:	TO WITHDRAW
Attorney Docket No. BELL-0176/02130	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 9, 2005.

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

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

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 Irvin Dingle at 571-272-3210.

Amelia Au
Petitions Examiner
Office of Petitions

cc: Withers & Keys for Bell South
P.O. Box 71355
Marietta, GA 30007-1355

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

Corporate Patent Counsel
U.S. Philips Corporation
580 White Plains Road
Tarrytown, NY 10591

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MAR 17 2003

OFFICE OF PETITIONS

In re Application of
Thomason, Farringdon, and Walker
Application No.: 10/179,350
Filed: December 10, 2002
Attorney Docket No: GB010098
For: DATA INPUT DEVICE

DECISION ACCORDING STATUS UNDER RULE 47(a)

This is in response to the petition under 37 CFR 1.47(a), filed December 10, 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 instant petition was filed in response in to the "Notice to File Missing Parts of Nonprovisional Application" (the "Notice"), mailed August 8, 2002, which indicated that a proper oath or declaration for inventor Farringdon had not been filed, that a surcharge of $130.00 was due consequently. The Notice set forth an extendable period for reply of two months from its mailing date. On December 10, 2002 (certificate of mailing dated December 5, 2002), in response to the Notice, petitioner filed a request for an extension of time within the second month, the instant petition, and other documents evidencing inventor Farringdon's constructive refusal to join the above-cited application.

Petitioner established that, although inventor Farringdon was mailed the complete application papers (specification, abstract, claims, drawings, and assignment), he constructively refused to execute the declaration and the join the above-cited application. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

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

Deposit account 14-1270 will be assessed $130.00 for the instant petition fee.

This application will be forwarded to Technology Center 3700 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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NXP, B.V.
NXP INTELLECTUAL PROPERTY DEPARTMENT
M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE CA 95131

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JAN 1 7 2008

OFFICE OF PETITIONS

In re Application of

Van Wageningen, et al.

Application No. 10/179,359

Filed: June 25, 2002

Attorney Docket No. DE010189

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 8, 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 November 24, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained within the allowable period. Accordingly, the application became abandoned on February 25, 2007 A Notice of Abandonment was mailed on July 27, 2007.

The amendment filed August 8, 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 forwarded to Technology Center 2600, GAU 2616 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

Cc:
Mark A. Wilson
PMB: 348
2530 Berryessa Road
San Jose, CA 95132

UNITED STATES 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. 6824517
Issue Date: November 30,2004
Application No. 10179361
Filed: June 25,2002
Attorney Docket No. US020115

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

This is a decision on the electronic petition, filed June 2,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 2,2009 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

#10

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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. 10

CROWELL & MORING, L.L.P.
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

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AUG 1 5 2003

OFFICE OF PETITIONS

In re Application of
Mark Zoller, Xiaodong Li, Lena Staszewski,
Shawn O'Connell, Sergey Zozulya, Jon Adler,
Hong Xu and Fernando Echeverri
Application No.10/179,373
Filed: June 26, 2002
Attorney Docket Number: P 0291566
Title of Invention: T1R
HETERO-OLIGOMERIC TASTE RECEPTORS
AND CELL LINES THAT EXPRESS SAID
RECEPTORS AND USE THEREOF FOR
IDENTIFICATION OF TASTE COMPOUNDS

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed July 23, 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 after having been presented with the application papers. Specifically, the declaration of Robin Teskin attest a copy of the application was sent to non-signing inventor's last known address and non-signing inventor's legal representative. Additional attempts to contact the non-signing inventors went unanswered. The non-signing inventor's failure to respond to the application sufficiently establishes that he refuses to execute 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.

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) 306-0251.

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Dr. Jon Elliot Adler
1099 Turquoise Street Apt. 15
San Diego, CA 92122

In re Application of
Mark Zoller, Xiaodong Li, Lena Staszewski, Shawn O'Connell, Sergey Zozulya, Jon Adler, Hong Xu and Fernando Echeverri
Application No.10/179,373
Filed: June 26, 2002
Attorney Docket Number: P 0291566
Title of Invention: T1R HETERO-OLIGOMERIC TASTE RECEPTORS AND CELL LINES THAT EXPRESS SAID RECEPTORS AND USE THEREOF FOR IDENTIFICATION OF TASTE COMPOUNDS

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AUG 1 5 2003

LETTER OFFICE OF PETITIONS

Dear Dr. Adler:

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 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

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

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

Robin Teskin
CROWELL & MORING, L.L.P.
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044-4300

cc: Marilynn Mika Spenser

8

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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JUN 02 2003

OFFICE OF PETITIONS

Pillsbury Winthrop LLP
Intellectual Property Group
P.O. Box 10500
McLean, VA 22102

In re Application of
Zoller et al.
Application No.10/179,373
Filed: June 26, 2002
Attorney Docket No. P 0291566
Title of Invention: T1R HETERO-OLIGOMERIC TASTE RECEPTORS AND CELL LINES THAT EXPRESS SAID RECEPTORS AND USE THEREOF FOR IDENTIFICATION OF TASTE COMPOUNDS

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition filed January 15, 2003 under 37 CFR. §1.47(a).

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

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the 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 26, 2002, without an executed oath or declaration. Accordingly, on August 15, 2002, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring, for the purposes of this decision, an executed oath or declaration in compliance with §1.63, and a surcharge for its late filing. This Notice set an extendable two-month period for reply of October 15, 2002.

In reply, applicant filed a petition, the surcharge for late filing of the declaration, and a partially executed declaration. To make the reply timely, a three (3) month extension of time was also submitted. In support of the petition, applicants submitted the declarations of Janice P. Brown and Sherry Dollins.

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

As to item (1), Rule 47 applicant has failed provide a clear record to illustrate a copy of the application papers were ever presented to inventor Adler. The declaration of Sherry Dollins indicates "patent documents" were submitted for Dr. Adler's review. A list has also been provided which indicates with regard to this application the declaration and power of attorney as well as assignment documents were presented for Dr. Adler's signature.[1] However it is not clear that the application papers (specification, including claims, drawings, and oath or declaration) were presented. Before a refusal can be alleged, applicant must demonstrate a bona fide attempt was made to present a copy of application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. See MPEP 409.03(d).

Inventor Adler must be presented with the opportunity to sign the application papers before rule 47 status will be granted. If petitioner did indeed submit the application papers pursuant to MPEP 409.03, with the July 15, 2002 mailing, petitioner should present a signed statement alleging such facts. However if application papers (specification, including claims, drawings, and oath or declaration) were not presented to inventor Alder or his representative, rule 47 status can not be granted.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 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

[1]In addition, the letter dated August 20, 2002 from Mika Spenser, attorney for inventor Adler, request that a copy of the patent application be submitted so inventor Adler can make a proper attestation in the declaration would imply the application papers were not submitted.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Paper No. 10

CROWELL & MORING, L.L.P.
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

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OFFICE OF PETITIONS

In re Application of
Mark Zoller, Xiaodong Li, Lena Staszewski, Shawn O'Connell, Sergey Zozulya, Jon Adler, Hong Xu and Fernando Echeverri
Application No.10/179,373
Filed: June 26, 2002
Attorney Docket Number: P 0291566
Title of Invention: T1R HETERO-OLIGOMERIC TASTE RECEPTORS AND CELL LINES THAT EXPRESS SAID RECEPTORS AND USE THEREOF FOR IDENTIFICATION OF TASTE COMPOUNDS

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

#54074 US

This is in response to the renewed petition under 37 CFR 1.47(a), filed July 23, 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 after having been presented with the application papers. Specifically, the declaration of Robin Teskin attest a copy of the application was sent to non-signing inventor's last known address and non-signing inventor's legal representative. Additional attempts to contact the non-signing inventors went unanswered. The non-signing inventor's failure to respond to the application sufficiently establishes that he refuses to execute 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.

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) 306-0251.

Charlema R. Grant
Petitions Attorney
Office of Petitions

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Dr. Jon Elliot Adler
1099 Turquoise Street Apt. 15
San Diego, CA 92122

In re Application of
Mark Zoller, Xiaodong Li, Lena Staszewski, Shawn O'Connell, Sergey Zozulya, Jon Adler, Hong Xu and Fernando Echeverri
Application No.10/179,373
Filed: June 26, 2002
Attorney Docket Number: P 0291566
Title of Invention: T1R HETERO-OLIGOMERIC TASTE RECEPTORS AND CELL LINES THAT EXPRESS SAID RECEPTORS AND USE THEREOF FOR IDENTIFICATION OF TASTE COMPOUNDS

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AUG 1 5 2003

LETTER OFFICE OF PETITIONS

Dear Dr. Adler:

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 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

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

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

Robin Teskin
CROWELL & MORING, L.L.P.
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044-4300

cc: Marilynn Mika Spenser

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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JUL 09 2007

OFFICE OF PETITIONS

In re Application of	:	
Zoller, et al.	:	
Application No. 10/179,373	:	DECISION ON PETITION
Filed: June 26, 2002	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 67824.407401	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 11, 2007, 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 concurrently filed amendment.

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 comply with item (1)

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The

relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications. The amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

In addition, it is noted that the amendment states that this application is a continuation-in-part of provisional applications. Do applicants wish to claim 120 benefit of the provisional applications?

In any future filed amendment, petitioners should clarify the relationships among the nonprovisional applications and decide whether or not petitioners wish to claim 120 benefit of the provisional applications.

The reference to add 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 application no. 09/799,629. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3), an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)), which states the relationships of the prior-filed applications (if necessary) to this application, and elimination of the incorporation by reference statement with respect to application no. 09/799,629, 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 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
www.uspto.gov

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

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OCT 01 2007

OFFICE OF PETITIONS

In re Application of	:	
Zoller, et al.	:	
Application No. 10/179,373	:	DECISION ON PETITION
Filed: June 26, 2002	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 67824.407401	:	

This is a decision on the reconsideration petition under 37 CFR 1.78(a)(3), filed July 30, 2007, 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 concurrently filed amendment.

The petition is **GRANTED.**

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

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

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the

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

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

Any inquiries concerning this decision may be directed to the undersigned 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 1647 for consideration by the examiner of applicants' entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/179,373	06/26/2002	1647	2543	67824.407401	193	10

CONFIRMATION NO. 7731

CORRECTED FILING RECEIPT

OC000000026060368

21967
HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

Date Mailed: 09/28/2007

Receipt is acknowledged of this nonprovisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Mark Zoller, San Diego, CA;
Xiaodong Li, San Diego, CA;
Lena Staszewski, San Diego, CA;
Shawn O'Connell, Encinitas, CA;
Sergey Zozulya, San Diego, CA;
Jon Elliot Adler, San Diego, CA;
Hong Xu, San Diego, CA;
Fernando Echeverri, Chula Vista, CA;

Assignment For Published Patent Application

Senomyx, Inc., La Jolla, CA

Power of Attorney: The patent practitioners associated with Customer Number **21967**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/300,434 06/26/2001
and claims benefit of 60/304,749 07/13/2001
and claims benefit of 60/310,493 08/08/2001
and claims benefit of 60/331,771 11/21/2001
and claims benefit of 60/339,472 12/14/2001
and claims benefit of 60/372,090 04/15/2002
and claims benefit of 60/374,143 04/22/2002
and is a CIP of 09/897,427 07/03/2001 PAT 6,955,887
and is a CIP of 09/799,629 03/07/2001 PAT 7,244,835

and is a CIP of 10/035,045 01/03/2002 PAT 7,241,880

Foreign Applications

If Required, Foreign Filing License Granted: 08/14/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/179,373

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

HETEROMERIC UMAMI T1R1/T1R3 TASTE RECEPTORS AND ISOLATED CELLS THAT EXPRESS SAME

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual

property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

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

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

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Paper No. 11

Vladimir Khiterer
Khiterer Law Office
2901 W. Coast Hwy.
Suite 200
Newport Beach, CA 92663

COPY MAILED
JUL 2 2 2004
OFFICE OF PETITIONS

In re Application of	:	
Henry Solowiej	:	
Application No. 10/179,380	:	ON PETITION
Filed: June 26, 2002	:	
Attorney Docket No. N/A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 24, 2004, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

The application file is being forwarded to Technology Center 2800.

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

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JENNER & BLOCK, LLP
ONE IBM PLAZA
CHICAGO, IL 60611

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NOV 0 3 2004

OFFICE OF PETITIONS

In re Application of :
Getz et al. :
Application No. 10/179,432 :
Filed: June 25, 2002 :
Attorney Docket No. DBZ-527P2-319 :

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 30, 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 March 15, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on June 16, 2004.

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

The Notice of Appeal filed September 30, 2004, has been entered and made of record. Accordingly, the 2-month period for filing the appeal brief, in triplicate, accompanied by the fee required by law, runs from the date of this decision.

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 September 30, 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.

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

This matter is now being referred to Technology Center 3600 for further processing.

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

cc: THOMAS W. FLYNN
WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

UNITED STATES PATENT AND TRADEMARK OFFICE

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JENNER & BLOCK, LLP
ONE IBM PLAZA
CHICAGO IL 60611

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NOV 22 2006
OFFICE OF PETITIONS

In re Application of	:	
Getz et al.	:	
Application No. 10/179,432	:	ON PETITION
Filed: June 25, 2002	:	
Attorney Docket No. 442005-00121	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 29, 2006, to revive the above-identified application.

The petition is **GRANTED.**

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

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

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

This matter is being referred to Technology Center 3600 for further examination on the merits. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Walsh
Petitions Examiner
Office of Petitions

Cc:

DAVID R. JAGLOWSKI
2000 COURTHOUSE PLAZA, NE
P.O. BOX 8801
DAYTON, OH 45401-8801

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PHILADELPHIA, PA 19103

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MAY 0 5 2006

OFFICE OF PETITIONS

In re Application of	:	
Maria Adamczyk et al	:	
Application No. 10/179,441	:	DECISION ON PETITION
Filed: June 24, 2002	:	TO WITHDRAW
Attorney Docket No. BLL-0351	:	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 17, 2005.

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

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

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

This application is being referred to Technology Center AU 2617 to await a reply to the final Office action mailed February 8, 2006.

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

Denise Pothier
Petitions Examiner
Office of Petitions

cc: CANTOR COLBURN LLP - BELLSOUTH
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

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092104

SEP 21 2004

LARRY WILLIAMS
3645 MONTGOMERY DR
SANTA ROSA, CA 95405-5212

In re Application of:
Bulang Li et al.
Serial No.: 10/179,461
Filed: June 24, 2002
For: **METHODS, APPARATUS, COMPUTER PROGRAM PRODUCTS, AND SYSTEMS FOR FERRULE ALIGNMENT AND FABRICATION OF OPTICAL SIGNAL CONTROLLERS**

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENT OF RECORD

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed March 06, 2003.

The request is APPROVED.

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

The request was signed by Larry Williams, the sole attorney of record associated with Customer No. 25199.

Applicants are reminded that there is no attorney of record at this time. The correspondence address of record has been changed and the new correspondence address is the address indicated below.

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

Hien H. Phan, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components
(571) 272-1606

cc: Navrit Singh
LAMDA OPTICS, INC.
720-A Montague Expressway
Milpitas, CA 95035

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. 11

Karen J. Towsend
Elmore Craig, P.C.
209 Main Street
No. Chelmsford, MA. 01863

Date: December 29, 2003
Application No. 10/179,463
Filed: June 24, 2002
Subject: **PARTICLES FOR INHALATION HAVING RAPIDLY RELEASE PROPERTIES**

ON PETITION
37 CFR 1.48(a)

Receipt is acknowledged of the petitions filed May 14, 2003, 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 this non-provisional application, as filed, through error and without deceptive intent, improperly set forth the Inventorship, and accordingly, this application has been changed by the addition of **JEFFREY S. HRKACH**. The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of the file jacket and PTO PALM data to reflect the inventorship as corrected.

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

THURMAN K. PAGE
United States Patent and Trademark Office
Technology Center 1600
SPE, ART UNITS 1615 & 1616
CM1- 2B01
703-308-2927

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Paper No. 7

Larry Williams
122 Calistoga Road, PMB-301
Santa Rosa, CA 95409-3702

MAILED
MAY 15 2003

OFFICE OF DIRECTOR
GROUP

In re Application of)
Bulang Li et al.)
Application No.10/179,470)
Filed: June 24, 2002)
For: METHODS, APPARATUS,)
COMPUTER PROGRAM PRODUCTS,)
AND SYSTEMS FOR LENS ALIGNMENT)
AND FABRICATION OF OPTICAL)
SIGNAL CONTROLLERS)

DECISION ON PETITION

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed March 6, 2003.

The request is APPROVED.

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

The request was signed by Larry Williams, the sole attorney of record, Customer No. 25199.

The correspondence address of record has been changed and the new correspondence address is the address indicated below. This decision results in the application having no attorney of record.

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

Henry Phan

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

cc. Navrit Singh
LAMBDA OPTICS, INC.
720-A Montague Expressway
Milpitas, CA 95035

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HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET NY 11791

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APR 27 2009

OFFICE OF PETITIONS

In re Application of
SOWINSKI, Krzysztof et al.
Application No. 10/179,484
Filed: June 25, 2002
Attorney Docket No. **498-264**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 17, 2009 and resubmitted on March 19, 2009.

The request is **moot** because a revocation of power of attorney has been previously filed.

A review of the file record indicates that the power of attorney to HOFFMANN & BARON, LLP has been revoked by the assignee of the patent application on April 22, 2009. 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 Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **VIDAS, ARRETT & STEINKRAUS, P.A.**
SUITE 400, 6640 SHADY OAK ROAD
EDEN PRAIRIE, MN 55344

PTO/SB/44 (08-07)
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(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,653,311

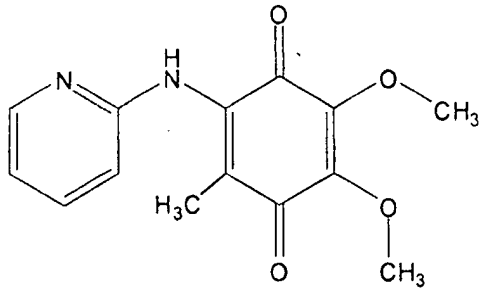
APPLICATION NO.: 10/179,534

ISSUE DATE : November 25, 2003

INVENTOR(S) : Nicolas G. Bazan et al.

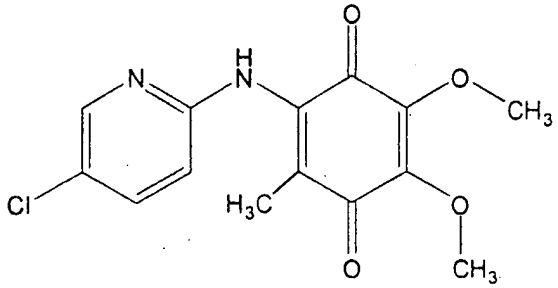
It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In Column 11, lines 17 to 26, please replace structure 4e as shown:



4e

In Column 12, lines 33 to 42, please replace structure 4g as shown:



4g

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

Bonnie J. Davis, Reg. No. 41,699
Taylor, Porter, Brooks & Phillips
P.O. Box 2471, Baton Rouge, LA 70821-2471

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/44 (08-07)
Approved for use through 08/31/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,653,311

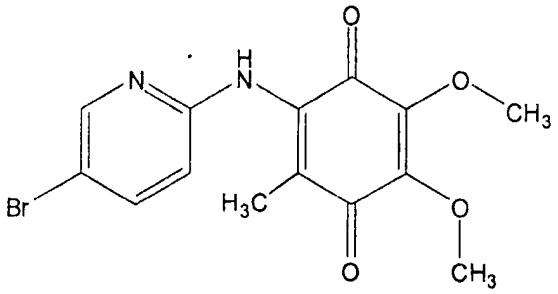
APPLICATION NO.: 10/179,534

ISSUE DATE : November 25, 2003

INVENTOR(S) : Nicolas G. Bazan et al.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

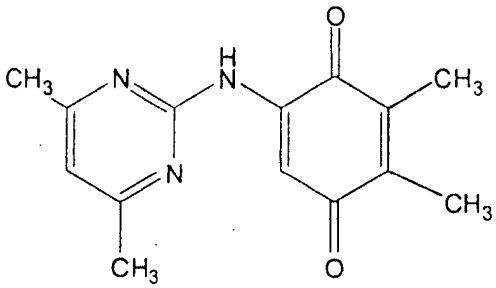
In Column 13, lines 5 to 15, please replace structure 4h as shown:



4h

In Column 14, line 3, please correct line 3 to read:
--Quantitative Analysis. Calculated for $C_{15}H_{10}N_2O_2$.--

In Column 19, lines 25 to 35, please replace structure 4s as shown:



4s

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

Bonnie J. Davis, Reg. No. 41,699
Taylor, Porter, Brooks & Phillips
P.O. Box 2471, Baton Rouge, LA 70821-2471

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110

Mail Date: 04/23/2010

Applicant	: Jackson Shyu	: DECISION ON REQUEST FOR
Patent Number	: 7606891	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/179,542	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/24/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **840** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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United States Patent and Trademark Office
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Casimir Jones, S.C.
2275 DEMING WAY, SUITE 310
MIDDLETON, WI 53562

Mail Date: 04/21/2010

Applicant	: James R. Baker JR.	: DECISION ON REQUEST FOR
Patent Number	: 7655252	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/179,547	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/25/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **221** 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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TECHNOLOGY CENTER 3600

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David Eugene Barfield
339 S. Eastway Drive
Troutman, NC 28166

Inventor: David Eugene Barfield	:	ON PETITION TO WITHDRAW
Application No. 10/179,579	:	THE HOLDING OF
Filed: February 3, 2003	:	ABANDONMENT UNDER
For: FLOAT – LOUNGE	:	37 C.F.R. 1.181

This is a decision on applicant's letters filed on March 30, 2006, October 26, 2005 and August 4, 2005. It appears that these letters were in response to the Notice of Abandonment mailed on August 1, 2005. These letters, taken together, are being treated as a Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181.

The petition is **GRANTED.**

A review of the file record reveals that applicant filed a timely response on August 6, 2004 to the Notice of Non-compliant of July 14, 2004. In the response, applicant submitted newly amended claims 2-8 in his response along with a new set of drawings. The examiner did not treat these claims on the merits in the final Office action of November 22, 2004. Because this Office action was sent out in error, the final Office action is VACATED along with any subsequent communications sent out by the Patent Office since the mailing thereof. Accordingly, the Notice of Abandonment is hereby withdrawn as a result of the vacated final Office action.

This application will be forwarded to the Legal Instruments Examiner (LIE) for treatment of the formalities of the response filed August 6, 2004, as well as the other responses filed July 28, 2004 and August 9, 2004. All these responses were timely filed in response to Notice of Non-compliance of July 14, 2004.

In treating the formalities of the response of August 6, 2004, the LIE will outline all the occurrences of continued non-compliance and accordingly, send a new Notice of Non-compliance setting forth a new period of response of one (1) month. In particular, the response of August 6, 2004 presents newly amended claims 2-8, but does not indicate all the added material (i.e. added claim language) only with underlining, and all the deleted material (i.e. deleted claim language) only with a strikethrough line through the material. Also, status identifiers need to be included after each of the claim numbers of

the claim listing. Please refer the revised amendment practice set forth in 37 CFR 1.121 (See the attachment outlining the revised amendment practice sent with Notice of Non-Compliance of July 14, 2004). Further, applicant did not respond at all with any argument and/or comment regarding the rejections set forth in the non-final Office action of October 8, 2003. The Office action set forth rejections under both 35 U.S.C. 112, second paragraph, as well as a rejection based on prior art under 35 U.S.C. 103(a). Applicant should address why claim 1 is considered to be definite as well as discuss why applicant disagrees with the proposed combination of references under 35 U.S.C. 103(a) in order for any response to be considered fully responsive to the Office action. Furthermore, the drawings submitted with the response of August 6, 2004, also do not comply with the requirements of the revised amendment set forth in 37 CFR 1.121. Please note section C of the attachment which states that an explanation of the changes made must be presented either in the drawing amendments or in the remarks section of the amendment and may be accompanied by a marked-up copy of one or more of the figures being amended with annotations. It appears that applicant has done neither of these items. In fact, it appears that the new drawings submitted with the response of August 6, 2004, wholly new figures in relationship to the drawings of February 3, 2003, that they appear to present new matter, which is not permitted.

It is noted that applicant has filed a number of letters in response to the final Office action of November 22, 2004. It appears that none of these letters constitute a proper reply to the final Office action because applicant did not specifically address the merits of the Office action (i.e. the rejections of claim 1 under both 35 U.S.C. 112(2) and 35 U.S.C. 103(a)). Further, applicant did not file either a Notice of Appeal or Request for Continued Examination (RCE) along the requisite fees and appropriate extensions of time. Since applicant has not taken action, which would constitute a proper reply, the case went abandoned and only through Office error that the holding of abandonment is being withdrawn.

Any questions regarding this decision should be directed to Peter M. Cuomo, Supervisory Patent Examiner, Art Unit 3636 at 571-272-6856.

Summary: ***Petition Granted***

Wynn W. Coggins, Director
Patent Technology Center 3600
(571)-272-5350

RPO/SNM:8/01/06
SM

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

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AUG 0 1 2007

OFFICE OF PETITIONS

In re Application of	:	
Timothy M. Schmidl et al.	:	
Application No. 10/179,592	:	ON PETITION
Filed: June 25, 2002	:	
Attorney Docket No. TI-33217	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 1, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 31, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination (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). Since the amendment submitted does not prima facie place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1). The Amendment submitted to the Examiner on December 1, 2006 failed to place the above-identified application in prima facie condition for allowance. Petitioner must submit one of the above documents in order to revive the above-identified application.

The Advisory Action issued by the Examiner is enclosed.

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

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

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2991.

Liana Walsh
Petitions Examiner
Office of Petitions

, NITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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TEXAS INSTRUMENTS INCORPORATED
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DALLAS TX 75265

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SEP 08 2008

OFFICE OF PETITIONS

In re Application of :
Timothy M. Schmidl, et al. :
Application No. 10/179,592 :
Filed: June 25, 2002 :
Attorney Docket No. TI-33217 :

ON PETITION

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

The petition is **GRANTED**.

The 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 May 31, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 1, 2006.

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

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2, runs from the date of this decision.

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

The application file is being forwarded to Technology Center AU 2611 for appropriate action on the concurrently filed Notice of Appeal.

Chris Bottorff
Petitions Examiner
Office of Petitions

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DALLAS TX 75265

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OFFICE OF PETITIONS

In re Application of	:	
Schmidl et al.	:	
Application No. 10/179592	:	ON PETITION
Filing or 371(c) Date: 06/25/2002	:	
Attorney Docket Number: TI-33217	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 3, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 31, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2).

Applicant filed a Petition to revive the application and a Notice of Appeal on August 15, 2007, setting a two (2) month period within which to file a brief in support of the appeal. However, no brief in support of the appeal was filed, and the appeal was dismissed. Accord 37 CFR 41.37(b). Accordingly, the date of abandonment of this application is September 1, 2006.

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 (and the submission, an amendment, required by 37 CFR 1.114); (2) the petition fee; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2419 for processing of the RCE and for appropriate action on the amendment by the Examiner in the normal course of business.

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

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OFFICE OF PETITIONS

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

In re Application of	:	
Timothy M. Schmidl et al.	:	
Application No. 10/179,592	:	DECISION ON PETITION
Filed: June 25, 2002	:	
Attorney Docket No. TI-33217	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 2, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 12, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 13, 2009. A Notice of Abandonment was mailed on February 19, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,620, (3) a proper statement of unintentional delay. Accordingly, the amendment is accepted as being unintentionally delayed.

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 petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the petition is being construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the petition.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 2467 for appropriate action by the Examiner in the normal course of business on the reply received March 2, 2010.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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KINNEY & LANGE, P.A.
THE KINNEY & LANGE BUILDING
312 SOUTH THIRD STREET
MINNEAPOLIS, MN 55415-1002

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MAY 24 2010

OFFICE OF PETITIONS

In re Patent No. **7,006,144**	:	
Issue Date: February 28, 2006	:	
Application No. 10/179,603	:	DECISION ON PETITION
Filed: June 25, 2002	:	UNDER 37 CFR 1.378(C)
Attorney Docket No. **H582.12-0009**	:	

This is a decision on the petition under 37 CFR 1.378(c), filed March 19, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired at midnight on February 28, 2010 for failure to pay the 3½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR I.362(e), the petition was timely filed under the provisions of 37 CFR I.378(c).

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

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

The patent file is being forwarded to Files Repository.

Thurman K. Page
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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PRINCE HENEVELD COOPER DEWITT & LITTON LLP
695 KENMOOR SE
PO BOX 2567
GRAND RAPIDS MI 49501

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OFFICE OF PETITIONS

In re Application	:
Waalkes, et al.	:
Application No. 10/179,607	: DECISION ON APPLICATION
Filed: June 25, 2002	: FOR PATENT TERM ADJUSTMENT
Atty Docket No. STE01 P-890D	:

This is a decision on the "REQUEST FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. 1.705," filed October 27, 2004.[1] Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from fifty-eight (58) days to eighty-six (86) days.

The application for patent term adjustment under 37 C.F.R. § 1.705(d) is **DISMISSED**. Applicants did not pay the required $200 PTA fee, and as such, the Office will not look into the matter on the merits.

Applicants are given **thirty (30) days** to respond to this decision. No extensions of time will be granted under 37 C.F.R. § 1.136(a). Any request for reconsideration must be accompanied by the $200 fee as set forth in 37 C.F.R. § 1.18(e).

---

[1] This application for patent term adjustment was timely filed, as it was filed after the mailing of the Notice of Allowance and before payment of the issue fee.

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

Karin Ferriter
per

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

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 3

LEYDIG VOIT & MAYER
TWO PRUDENTIAL PLAZA
SUITE 4900
180 NORTH STETSON
CHICAGO, IL 60601-6780

COPY MAILED

SEP 0 4 2002

OFFICE OF PETITIONS

In re Application of :
Greg C. Clinton :
Application No. 10/179,624 : DECISION GRANTING PETITION
Filed: June 24, 2002 :
Attorney Docket No. 217390 :

This is a decision on the petition under 37 CFR 1.10(c) filed August 19, 2002, requesting that the above-identified application be accorded a filing date of June 24, 2002, rather than the presently accorded filing date of June 25, 2002. The petition is properly treated as a petition under 37 CFR 1.10(d).

Applicant alleges that the application was deposited in "Express Mail" service with the U.S. Postal Service (USPS), on June 24, 2002. In support, applicant provided a copy of the Express Mail label, receipt No. EL643546639US. The same Express Mail receipt number was referred to in the copy of the original transmittal letter submitted with the present petition. A review of the Express Mail mailing label reveals that the "date-in" entered is not clear; inasmuch as it can be read as June 21, 2002 or June 24, 2002.

A search of the USPS's Track/Confirm system information confirms that a package bearing Express Mail label No. EL643546639US was accepted at 9:34 pm on June 24, 2002.

In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on June 24, 2002.

The petition is granted.

No petition fee is required and none has been charged.

The application is being returned to Initial Patent Examination Division for correction of the filing date to June 24, 2002.

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

Brian Hearn

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

Enclosure: Express Mail Track/Confirm Sheet

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 3

LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO, IL 60601-6780

COPY MAILED

SEP 0 6 2002

OFFICE OF PETITIONS

In re Application of
Resnick, et al.
Application No. 10/179,668
Filed: June 24, 2002
Attorney Docket No. 217377

DECISION GRANTING PETITION

This is a decision on the "Petition to Accord Correspondence Filing Shown on Express Mail Label "Date-In" (37 CFR §1.10(c))," filed August 19, 2002, requesting that the above-identified application be accorded a filing date of June 24, 2002, rather than the presently accorded filing date of February 25, 2002.

Applicants petition to accord the correspondence in the above-identified application the "date-in" of June 24, 2002 shown on the Express Mail label No. EL643546585US. Petitioner respectfully contends that the date of February 25, 2002 accorded this correspondence by the Office is incorrect. In support thereof, petitioner submits a true copy of the Utility Patent Application Transmittal of the correspondence which was filed, and a true copy of the Express Mail mailing label used.

Having reviewed the evidence, it is concluded that petitioner has shown a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by other official USPS notation. The petition was filed promptly within the meaning of §1.10(c)(1). The transmittal sheet as submitted on petition with the Express Mail No. thereon is a true copy of the transmittal of record and identifies the correspondence currently accorded a filing date of February 25, 2002. Thus, petitioner has shown that Express Mail No. EL643546585US was placed on the correspondence prior to the original mailing date. A review of the true copy of the Express Mail mailing label further reveals that the "date-in" entered by the USPS is clearly June 24, 2002.

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

No petition fee is necessary and none has been charged.

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to June 24, 2002.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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180 NORTH STETSON AVENUE
CHICAGO, IL 60601-6731

Mail Date: 04/20/2010

Applicant	: Robert M. Resnick	: DECISION ON REQUEST FOR
Patent Number	: 7650607	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/179,668	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/24/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1685** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/179,680	06/25/2002	Steven James Adolf	ADLF-1US	7907

7590 08/07/2003

KNOBLE & YOSHIDA, LLC
Eight Penn Center, Suite 1350
1628 John F. Kennedy Blvd.
Philadelphia, PA 19103

EXAMINER
WONG, STEVEN B

ART UNIT	PAPER NUMBER
3711	3

DATE MAILED: 08/07/2003

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

CS

Paper No. 3

In re Application of
Steven Adolf
Serial No. 10/179,680
Filed: June 25, 2002
For: GOLF BALL PLACEMENT DEVICE

: Decision Granting Deferral of Examination
: and Withdrawing Office Action

On August 27, 2002 applicant filed a request for deferral of examination under 37 CFR 1.103(d). The request met all of the requirements of section 103(d). Inadvertantly, on June 3, 2003 an Office action on the merits was mailed. Subsequently, applicant's attorney confirmed by telephone that applicant did wish to defer examination.

A review of the record now shows that since the deferral request met all of the requirements, the Office action was issued in error. Accordingly, the Office communication mailed June 3, 2003 is withdrawn, the shortened statutory period set therein is vacated and the request for deferred examination is granted for three years from the earliest priority date claimed, i.e. examination is deferred for three years from the date of the provisional application filing date of June 29, 2001.

Paul T. Sewell
Supervisory Patent Examiner
Art Unit 3711, TC 3700

KNOBLE & YOSHIDA, LLC
Eight Penn Center, Suite 1350
1628 John F. Kennedy Blvd.
Philadelphia, PA 19103

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent No. 7020402
Issue Date: March 28,2006
Application No. 10179689
Filed: June 24,2002
Attorney Docket No. S1471.03

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

This is a decision on the electronic petition, filed June 21,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 21,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,020,402	2006-03-28	10/179,689	2002-06-24	I018-P10240US

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

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

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

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/John E. Gunther/	Date (YYYY-MM-DD)	2010-06-21
Name	John E. Gunther	Registration Number	43649

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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CHA & REITER
411 HACKENSACK AVE, 9TH FLOOR
HACKENSACK NJ 07601

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OCT 1 0 2003

OFFICE OF PETITIONS

In re Application of
Jeong, et al.
Application No. 10/179,704
Filed: June 25, 2002
Attorney Docket No. 5000-1-251
For: METHOD FOR FABRICATING SILICA GLASS USING SOL-GEL PROCESS

: ON PETITION

This is a decision on the petition entitled, "PETITION TO CHANGE THE FILING DATE FOR THE ABOVE IDENTIFIED APPLICATION (37 CFR 1.181)," filed June 11, 2003 (certificate of mailing date June 9, 2003). The petition will be treated under 37 CFR 1.182.

The petition under 37 CFR 1.182 to accord a June 25, 2002 filing date for the application based on the presence of identical drawings in the Korean priority document is **GRANTED**.

The application was deposited on June 25, 2002. On July 29, 2002, the Office of Initial Patent Examination (OIPE) mailed a Notice of Omitted Items in a Nonprovisional Application stating that the application appeared to be missing figures 7 and 8 described in the specification.

In response, on August 13, 2002 (certificate of mailing date August 5, 2002), petitioners submitted figures 5-8, admitted the drawings were omitted due to clerical error, accepted the date the figures were filed in the Office as the filing date of the application, and requested the original filing date of June 25, 2002 be maintained because all eight figures were present in the certified foreign application filed on the same date. It is noted that the July 29, 2002 Notice only stated that figures 7 and 8 were missing.

The Office accorded the application a filing date of August 13, 2002.

In response, the instant petition was filed wherein petitioners reiterate their argument that the application is entitled to a June 25, 2002 filing date because missing drawing sheets were present in the Korean priority document that was filed on June 25, 2002 with the original application papers.

A physical copy of Korean application no. 2001-0070583 was filed on June 25, 2002 as a priority document. Pursuant to 37 CFR 1.52(d), a nonprovisional application may be in a language other than English. This foreign application appears to contain the same drawings as those English

language drawings intended to be filed in the above-identified application.[1]

Therefore, on petition under 37 CFR 1.182, the Korean application drawings may be utilized for filing date purposes. The application is entitled to a June 25, 2002 filing date using figures 7 and 8 of the Korean drawings.

This application is being returned to the Office of Initial Patent Examination for further processing, using the Korean application drawings 7 and 8. OIPE will mail a filing receipt citing **June 25, 2002** as the filing date for the application. In addition, OIPE will mail Notice informing petitioners of the necessity to file an English language translation of the non-English language drawings, a statement that the translation is accurate, and the $130.00 processing fee.

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

[1] The Office assumes that there is no new matter in the Korean drawings. If this assumption is incorrect, petitioners should contact the Office.

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JUN 2 2 2010

OFFICE OF PETITIONS

FISH & RICHARDSON P.C.
P.O. Box 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,423,655	: DECISION ON REQUEST
Issued: September 9, 2008	: FOR RECONSIDERATION
Application No. 10/179,716	: OF PATENT TERM ADJUSTMENT
Filed: June 24, 2002	: AND
Attorney Docket No. 07844-0.542001 /	: NOTICE OF INTENT TO ISSUE
P496	: CERTIFICATE OF CORRECTION

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(d)" filed November 17, 2008, requesting that the patent term adjustment determination for the above-identified patent be changed from 1120 days to 1374 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).[1]

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 three hundred seventy-four (1374) days and is **GRANTED**.

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 three hundred seventy-four (1374)** days.

The Office acknowledges the authorization to charge the $200.00 fee set forth in 37 CFR 1.18(e) to deposit account no. 06-1050.

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

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[1]Reconsidered in light of the Court of Appeals for the Federal Circuit's decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,423,655 B1

DATED : September 9, 2008

INVENTOR(S) : David C. Stephens

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 (1120) days

Delete the phrase "by 1120 days" and insert – by 1374 days--

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Paper No. 9

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SEP 01 2004

OFFICE OF PETITIONS

Paul B. Campbell, Jr.
271 Laymantown Rd
Troutville, VA 24175-6715

In re Application of :
Campbell, et al. : DECISION ON PETITION
Application No. 10/179,718 :
Filed: June 25, 2002 :
For: STEEL RETAINER FOR ROCK :
DRILL :

This decision is in response to the petition filed under 37 CFR 1.137(a) filed May 28, 2004.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

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

This application became abandoned November 29, 2003 for failure to timely file a proper response to the Notice of Non-Compliant Amendment (37 CFR 1.121) ("Notice") mailed October 28, 2003. The Notice set a one (1) month non-statutory period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were timely obtained. Notice of Abandonment was mailed May 28, 2004.

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

The present petition lacks requirement (3) set forth above. Petitioner has failed to present a showing to the satisfaction of the Commissioner that the entire delay in filing the required

reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable.

The Office may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable." See, 37 CFR 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

Petitioners attribute the delay in timely submitting a proper response to the Notice to failure to properly execute the response to the Notice submitted November 21, 2003.

In accordance with 37 CFR 1.4(d)(1)(i), each piece of correspondence, except as provided in 37 CFR 1.4(e) and (f), filed in an application, patent file, or other proceeding in the Office which requires a person's signature, must be an original, that is, have an original signature personally signed in permanent ink by that person.

Delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP, however, does not constitute "unavoidable" delay. See, Haines v. Quigg, 673 F. Supp. 314 at 317, 5 USPQ2d 1130 at 1132 (N.D. Ind. 1987); Vincent v. Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); and Ex parte Murray, 1891 Dec. Comm'r Pat. 130 at 131 (1891).

Moreover, 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 the USPTO's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action. See, In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

Thus, petitioners' have failed to establish to the satisfaction of the Director that the failure to timely submit a proper response to the Notice was unavoidable within the meaning of 37 CFR 1.137(a).

Any renewed petition must be accompanied evidence by establish that sufficiently establishes that the failure to timely submit a proper reply to the Notice was unavoidable.

ALTERNATE VENUE

Petitioner is **strongly** urged to consider filing a petition stating that the delay was unintentional. Petitioner's attention is directed to 37 CFR 1.137(b) which provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable". An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required petition fee and reply.

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

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By hand:	Office of Petitions

2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0310. Calls placed after September 27, 2004 should be directed to (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MAR 2 2 2005

OFFICE OF PETITIONS

Paul B. Campbell, Jr.
271 Laymantown Rd
Troutville, VA 24175-6715

In re Application of :
Campbell, et al. : DECISION ON PETITION
Application No. 10/179,718 :
Filed: June 25, 2002 :
For: STEEL RETAINER FOR ROCK :
DRILL

This is a decision on the petition renewed under 37 C.F.R. § 1.137(b), filed November 30, 2004 and supplemented February 18, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned November 29, 2003 for failure to timely file a proper response to the Notice of Non-Compliant Amendment (37 CFR 1.121) ("Notice") mailed October 28, 2003. The Notice set a one (1) month non-statutory period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were timely obtained. Notice of Abandonment was mailed May 28, 2004. A petition under 37 CFR 1.137(a) was filed May 28, 2004 and dismissed September 1, 2004.

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 will be 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
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P.O. Box 1450
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THE HECHER LAW GROUP
1925 CENTURY PARK EAST
SUITE 2300
LOS ANGELES, CA 90067

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Dean Schiller et al :
Application No. 10/179,732 :
Filed: June 24, 2002 :
Attorney Docket No. 53000.911C

This is a decision on the petition, filed April 9, 2008 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This matter is being referred to Technology Center AU 2173 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Amendment.

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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OCT 22 2008

OFFICE OF PETITIONS

In re Application of :
Dean Schiller et al :
Application No. 10/179,732 : ON PETITION
Filed: June 24, 2002 :
Attorney Docket No. 53000.911C

This is a decision on the petition, filed October 21, 2008 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 13, 2008 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2173 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

---

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

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#13

SHUMAKER & SIEFFERT, P.A.
8425 SEASONS PARKWAY
SUITE 105
ST. PAUL MN 55125

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JUL 0 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Fulkerson et al	:	
Application No. 10/179,742	:	ON PETITION
Filed: June 24, 2002	:	
Attorney Docket No. STL10635.40046.212USU1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 14, 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 June 14, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 15, 2004.

There is no indication that petitioner has submitted an Issue Fee Transmittal Form (PTOL-85b). Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, the attached blank Issue Fee Transmittal Form should be completed and returned to the Publishing Division within **ONE MONTH** from the mail date of this decision.

Additionally, if petitioner desires to have the RCE and amendment submitted on February 14, 2005, considered; a petition to withdraw from issue must be filed. See 37 CFR 1.313(c)(2).

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

This matter is being forwarded to Publishing Division.

Karen Creasy

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

ATTACHMENT: Blank Form PTOL 85(b)

UNITED STATES PATENT AND TRADEMARK OFFICE

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AUG 26 2005

OFFICE OF PETITIONS

SHUMAKER & SIEFFERT, P.A.
8425 SEASONS PARKWAY
SUITE 105
ST. PAUL MN 55125

In re Application of	:	
Fulkerson et al	:	
Application No. 10/179,742	:	ON PETITION
Filed: June 24, 2002	:	
Attorney Docket No.	:	
STL10635.40046.212USU1	:	

This is a corrected decision on the petition under 37 CFR 1.137(b), filed February 14, 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 June 14, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 15, 2004.

The Office letter mailed July 8, 2005, is hereby ***vacated***.

Petitioner is advised that the issue fee paid on February 14, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

---

[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 2651 will consider the request for continued examination under 37 CFR 1.114 submitted February 14, 2005.

Karen Creasy

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

bls

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703-746-4000

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1081-031USO1

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SHUMAKER & SIEFFERT, P.A.
8425 SEASONS PARKWAY
SUITE 105
ST. PAUL MN 55125

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OFFICE OF PETITIONS

DUPL. of #13

In re Application of
Fulkerson et al
Application No. 10/179,742
Filed: June 24, 2002
Attorney Docket No. STL10635.40046.212USU1

ON PETITION

D: 8-9-05 2nd

This is a decision on the petition under 37 CFR 1.137(b), filed February 14, 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 June 14, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 15, 2004.

There is no indication that petitioner has submitted an Issue Fee Transmittal Form (PTOL-85b). Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, the attached blank Issue Fee Transmittal Form should be completed and returned to the Publishing Division within **ONE MONTH** from the mail date of this decision.

Additionally, if petitioner desires to have the RCE and amendment submitted on February 14, 2005, considered; a petition to withdraw from issue must be filed. See 37 CFR 1.313(c)(2).

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

This matter is being forwarded to Publishing Division.

Karen Creasy

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

ATTACHMENT: Blank Form PTOL 85(b)

#18

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1625 RADIO DRIVE
SUITE 300
WOODBURY MN 55125

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OFFICE OF PETITIONS

In re Application of	:
CHRISTOPHER RYAN FULKERSON, et al.	:
Application No. 10/179,742	: NOTICE VACATING PATENT GRANT
Filed: June 24, 2002	:
Attorney Docket No. 1081-031US01	:

The purpose of this notice is to advise you that the above-identified application was mistakenly indicated to have been granted as U.S. Patent No. 6,987,629 on January 17, 2006.

The record discloses the following:

- A Notice of Allowance and Issue Fee(s) due and a Notice of Allowability were mailed on June 14, 2004, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on September 15, 2004 for failure to timely pay the issue and publication fees. A Notice of Abandonment was mailed on January 13, 2005.

- On February 14, 2005, a petition to revive the application under 37 CFR 1.137(b) along with a Request for Continued Examination (RCE) under 37 CFR 1.114 was received.

- The petition to revive the application under 37 CFR 1.137(b) was granted on July 8, 2005, but was later vacated and a new decision grant was mailed on August 26, 2006 stating that the application was forwarded to Technology Center AU 2651 for processing of the RCE and for consideration of the submission under 37 CFR 1.114 filed on February 14, 2005.

- The file record shows that the RCE was never processed and the submission under 37 CFR 1.114 was never considered. No subsequent Notice of Allowance and Fee(s) Due and a Notice of Allowability were generated as a result of the RCE filed on February 14, 2005. Applicant submitted an improper PTOL-85b on August 8, 2005 for payment of the issue fee.

- A patent number and an issue date were assigned as a result of the issue fee paid on February 14, 2005 on the Notice of Allowance dated June 14, 2004. This case issued as Patent No. 6,987,629 on January 17, 2006.

35 U.S.C. § 151, ¶ 2 ("[u]pon payment of [the issue fee] the patent shall issue"). While the issue fee payment in reply to the Notice of Allowance was paid, it was improper for the Office to apply this payment since no subsequent second Notice of Allowance was generated after prosecution was reopened with the filing of the RCE on February 14, 2005.

In view of the above, the USPTO's publication (on January 17, 2006) of a patent document purporting to be a patent was in error.

Accordingly, the following erratum will be published in the Official Gazette:

> **All reference to Patent No. 6,987,629 to Christopher Ryan Fulkerson, et al of Oklahoma for RANGELESS SERVO NOTCH OPTIMIZATION appearing in the Official Gazette of January 17, 2006 should be deleted since no patent was granted.**

Accordingly, this prosecution of this application has been reopened with the entry of the RCE and submission under 37 CFR 1.114 filed on February 14, 2005. The application will be forwarded to Technology Center Art Unit 2651 for action on the merits commensurate with this decision.

Any questions concerning this matter may be directed to Amelia Au at (571) 272-7414. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Charles Pearson
Director
Office of Petitions

cc: Paul Harrison
Deneise Boyd
Mary Louise McAskill
Niomi Farmer
Mary E. Johnson (Cookie)
Duane Davis (CDS)
Bradley Harris
Kimberly Terrell
Kay Pinkney
Betty Powell

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/179,749	06/25/2002	Sung-Yun Kwon	7034-001	8011

7590 02/02/2004

Rutan & Tucker LLP
611 Amon Blvd 14th Floor
P O Box 1950
Costa Meza, CA 92626

EXAMINER
WILLIAMS, CATHERINE SERKE

ART UNIT	PAPER NUMBER
3763	

DATE MAILED: 02/02/2004

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

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FEB 03 2004
TECHNOLOGY CENTER R3700

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Paper No. 9

RUTAN & TUCKER LLP
611 AMON BLVD 14TH FLOOR
P O BOX 1950
COSTA MEZA CA 92626

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FEB 2 2004
OFFICE OF PETITIONS

In re Application of :
Sung-Yun Kwon :
Application No. 10/179,749 : DECISION GRANTING PETITION
Filed: 25 June, 2002 :
Attorney Docket No. 7034-001 :

This is a decision on the petition, filed on 2 January, 2004, to revive the above-identified nonprovisional application under the unintentional provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of a foreign or international application filed on 19 June, 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(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 present 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)(i) has been rescinded. A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, which sets forth the projected publication date of 6 May, 2004, accompanies this decision on petition.

There is no indication that a reply to the non-final Office action requiring restriction of 21 December, 2003, has been filed. Accordingly, a shortened period of one (1) month for reply to the non-final Office action of 21 December, 2003, is restarted with the mailing date of this decision. Extensions of time pursuant to the provisions of 37 CFR 1.136(a) are permitted. Failure to timely reply within the period restarted by this decision will result in the abandonment of this application.

This application is being forwarded to Technology Center Art Unit 3763 to await a reply to the non-final Office action requiring restriction, the period of which is restarted to run from the mailing date of this decision on petition as noted above.

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

Any inquiries concerning this decision may be directed to the undersigned at 703.308.6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

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Paper No. 10

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OCT 2 4 2003

Technology Center 2100

Robert S. Sachs
FENWICK & WEST LLP
801 California Street
Mountain View, CA 94041

In re Application of:
Iryami Farhad
Application No.: 10/179,760
Filed: June 24, 2002
For: BIT ERROR RATE TESTER

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 May 19, 2003.

A Revocation And Substitution Of Power Of Attorney Under 37 CFR § 1. 36 was filed on June 16, 2003. The Power Of Attorney revoked all prior Powers Of Attorney and appointed Workman, Nydegger & Seeley as the attorneys of record of the instant application. The Power Of Attorney of June 16, 2003 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by Workman, Nydegger & Seeley.

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: Eric L. Maschoff
WORKMAN, NYDEGGER & SEELEY
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111

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Paper No. 3

LEYDIG VOIT & MAYER
TWO PRUDENTIAL PLAZA
SUITE 4900
180 NORTH STETSON
CHICAGO, IL 60601-6780

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OFFICE OF PETITIONS

In re Application of
Robert M. Resnick et al
Application No. 10/179,763
Filed: June 24, 2002
Attorney Docket No. 217389

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10(c) filed August 19, 2002, requesting that the above-identified application be accorded a filing date of June 24, 2002, rather than the presently accorded filing date of June 25, 2002.

Applicants allege that the application was deposited in "Express Mail" service with the U.S. Postal Service, on June 25, 2002. In support, applicants provided a copy of the Express Mail label, receipt No. EL643546625US, showing a Date-In of June 24, 2002. The same Express Mail receipt number was referred to in the copy of the original application transmittal letter submitted with the instant petition. Applicants request that the application be accorded a filing date of June 24, 2002.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label, MPEP 513. That is the date that verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on June 24, 2002.

The petition is granted.

No petition fee is required and none has been charged.

The application is being returned to Initial Patent Examination Division for correction of the filing date to June 24, 2002.

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

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

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MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

Mail Date: 07/06/2010

Applicant	: Anders E. Klemets	: DECISION ON REQUEST FOR
Patent Number	: 7725557	: RECALCULATION of PATENT
Issue Date	: 05/25/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/179,770	: OF WYETH
Filed	: 06/24/2002	:
		:

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

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

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

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

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

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

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

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

or

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

Lawrence E. Lycke
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

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FEB 28 2003

OFFICE OF PETITIONS

In re Application of
Steven W. Christensen
Application No. 10/179,775
Filed: June 24, 2002
Atty Docket No. 04860.P1365C3

DECISION ON PETITION

This is a decision on the petition filed September 25, 2002, requesting acceptance of an omitted item in the above-identified application.

The application was filed on June 24, 2002. However, on August 6, 2002, the Office mailed a "Notice to File Corrected Application Papers" stating that the application had been accorded a filing date; however, figure 6 described in the specification appeared to have been omitted. (In addition, substitute drawings in compliance with 37 CFR § 1.84 were required.)

In response, the present petition was filed requesting, in effect, that the application be amended to include the drawing of figure 6 described in the specification.

The petition is dismissed.

The mailing of a "Notice of Omitted Items" permits the applicant to either: (1) promptly establish prior receipt in the PTO of the drawing(s) at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing drawings were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted drawings in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted drawing(s) with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such drawing(s) and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the "Notice of Omitted Items" (37 CFR 1.181(f)).

In this case, petitioners neither assert that the missing drawing was deposited on June 24, 2002, nor request the September 25, 2002 filing date (the date the drawing figure was supplied).

Instead, applicants seek to amend the application to include the drawing figure. However, no petition under 37 CFR 1.182 is necessary for that purpose. New drawings may be entered by the primary examiner without petition so long as the new drawings contain no new matter. See MPEP § 608.02(a).

Accordingly, the petition is inappropriate and is subject to dismissal.

The petition fee will not be refunded as the petition was not necessary to correct any error on the part of the Office.

It is noted that the application transmittal letter identified this application as a continuation of prior application No. 08/821,004, (which is a continuation of prior application No. 08/316,237) and specifically incorporates by reference the disclosure of the prior application. MPEP 201.06(c) states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), <u>without the need for a petition</u>. (emphasis supplied)

Obviously, in view of the incorporation by reference of the prior application, the drawing of Figure 6 is not new matter if it was a part of the disclosure of the prior application.

Thus, a preliminary amendment to amend the application to include figure 6 should be filed prior to the first Office action on the merits to avoid further delay in the prosecution of this application. This amendment will be considered by the primary examiner.

The application is being returned to the Office of Initial Patent Examination for further processing <u>with a filing date of June 24, 2002</u>, including:

- an indication in Office records that 12 sheets of drawings were present on filing; and
- processing of the reply to the "Notice to File Corrected Application Papers," 13 sheets of substitute drawings filed September 25, 2002 (including a substitute drawing of figure 6, which is not a part of the original application disclosure).

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

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

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MAR 1 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Donald J. Ersler
725 Garvens Avenue
Brookfield WI 53005

In re Application of
Paul R. AMBOURN

Application No. 10/179,786
Filed: June 25, 2002
For: **TWO CHANNEL AUDIO SURROUND SOUND CIRCUIT**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request for Withdrawal as attorney or agent filed on January 6, 2005.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All attorneys/agents of record are withdrawn.

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

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

CC : Patrice N. Montpetit
1825 Bayard Avenue
St. Paul, MN 55116

UNITED STATES PATENT AND TRADEMARK OFFICE

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

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MAR 19 2008

OFFICE OF PETITIONS

In re Application of	:	ON PETITION
Stephen S. Change	:	
Application No. 10/179,790	:	
Filed: June 24, 2002	:	
Attorney Docket No. 42P9798	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 12, 2008, to revive the above-identified application. .

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office action mailed July 31, 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 (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). Since the amendment submitted on February 12, 2008, does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b). A courtesy copy of the Advisory Action is being mailed with this decision on petition.

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

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

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

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

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

Enclosure: Courtesy Copy of the Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/179,790	Applicant(s) CHANG, STEPHEN S.	
	Examiner JENNIFER N. TO	Art Unit 2195	

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

THE REPLY FILED 12 February 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 3 months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
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: N/A.
   Claim(s) objected to: N/A.
   Claim(s) rejected: 1-40.
   Claim(s) withdrawn from consideration: N/A.

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: _____.

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

PAGE 1/2 * RCVD AT 3/18/2008 9:48:33 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/2 * DNIS:2733226 * CSID:7033050040 * DURATION (mm-ss):01-48

Application No. 10/179,790

Continuation Sheet (PTO-303)

Continuation of 5. Applicant's reply has overcome the following rejection(s): 35 U.S.C 102(e) as being anticipated by Chang U.S. Patent No. 7028299.

Continuation of 11. does NOT place the application in condition for allowance because: In the remark, applicant argued that examiner failed to establise the rejection of the obviousness-type double patenting as being unpatentable over claims 1-30 of U.S. Patent No. 7028299, and inview of Myers (U.S. Patent No. 5581713) by pointed out that Myer fails to teach a snoop controller as recited in claim 1.

Exmainer respectful disagreed. Myers clealry teaches the snoop controller as recited in claim 1 (col. 8, line 62 through col. 9, line 6, appendex A.1-A.13). Therefore, it would have been obvious to one of an oridnary skill in the art at the time the invention was made to have combined the teaching of Chang and Myers to allow arbitration of bus services among processor modules.

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ALEXANDRIA, VA 22313-1450
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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

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JUN 30 2008
OFFICE OF PETITIONS

In re Application of	:	
Stephen S. Change	:	
Application No. 10/179,790	:	ON PETITION
Filed: June 24, 2002	:	
Attorney Docket No. 42P9798	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed May 19, 2008, 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 $810 filing fee and an amendment; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED.**

This application is being revived for consideration of the RCE.

The application file is being referred to Technology Center Art Unit 2195 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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LAW OFFICE OF POLLY L. OLIVER
P.O. BOX 4625
FEDERAL WAY, WA 98063

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JUN 27 2005

OFFICE OF PETITIONS

In re Application of :
Michael Robert Janes :
Application No. 10/179,797 : ON PETITION
Filed: June 24, 2002 :
Attorney Docket No. 258-3 :

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

The petition is **DISMISSED**.

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

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) two (2).

Petitioner is advised that as of December 8, 2004, the Petition fee for revival of an application for patent abandoned unintentionally under 37 CFR 1.137(b) is $750 for a small entity. Petitioner remitted $665 for the petition fee on May 12, 2005; therefore, the fee deficiency of $85 is due upon the filing of the "renewed petition."

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

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450

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

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

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

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United States Patent and Trademark Office
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LAW OFFICE OF POLLY L. OLIVER
P.O. BOX 4625
FEDERAL WAY, WA 98063

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SEP 2 1 2005

OFFICE OF PETITIONS

In re Application of :
Michael Robert Janes :
Application No. 10/179,797 : ON PETITION
Filed: June 24, 2002 :
Attorney Docket No. 258-3 :

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability mailed 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.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of Formal Drawings; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

This application matter is being forwarded to the Publishing Division for further processing.

Retta Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 6

BEYER WEAVER & THOMAS LLP
P.O. BOX 778
BERKELEY, CA 94704-0778

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FEB 1 8 2004

OFFICE OF PETITIONS

In re Application of Anthony Fadell, et al. Application No. 10/179,814 Filed: June 24, 2002 Attorney Docket No. APL1P225	: : : : :	DECISION DISMISSING PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed February 5, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is dismissed as **MOOT**.

The instant nonprovisional application became the subject of a counterpart application filed in an eighteen-month country on October 17, 2002. A review of the file record discloses that a Notification of International Filing and a request to rescind was received in the USPTO on October 23, 2002.

Since notification of foreign filing under 35 U.S.C. 122(b)(2)(B)(iii), including a notice of rescission under 35 U.S.C. 122(b)(2)(B)(ii), was received within forty-five days after the date the counterpart application was filed, the application is not abandoned. As such, the filing of a petition to revive is unnecessary and is dismissed as involving a moot issue. The $1330 petition fee is being credited to counsel's deposit account. *See* Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. 122(b)(2))(B)(ii)-(iv), 1272 OG 1 (July 1, 2003), available at http://www.uspto.gov/web/patents/ patog/week26/.

A Notice Regarding Rescission of Nonpublication Request indicating the projected date of publication of May 27, 2004 accompanies this decision.

This application is being forwarded to Technology Center AU 2111 for examination in due course.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-9220.

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

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ALEXANDRIA, VA 22313-1450
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Glenn M. Kubota
MORRISON & FOERSTER LLP
555 West Fifth Street, Suite 3500
Los Angeles, CA 90013

MAIL

APR 2 0 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Bradley ROACH et al
Application No. 10/179,816
Filed: June 24, 2002
For: DIRECT MEMORY ACCESS (DMA) TRANSFER BUFFER PROCESSOR

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

This is a decision on the petition filed March 14, 2005 under 37 CFR § 1.181(a) to withdraw the holding of abandonment of the above-identified application.

The petition is **GRATNED**.

This application was held abandoned by operation of law for failure to respond in a timely manner to the Office action mailed July 13, 2004. A Notice of Abandonment is not yet mailed.

In support of the petition, petitioner provides a copy of the return receipt post card listing (1) Transmittal Form; (2) Amendment in response to non-final Office action; and (3) a return receipt post card. The Return Acknowledgment Postcard has a USPTO stamp indicating receipt at the USPTO on August 25, 2004. Petitioner also provides copy of the amendment in response to non-final Office action dated August 25, 2004 as listed on the post card.

The original amendment, acknowledged as having been received in the USPTO on August 25, 2004, is not of record in the application file. However, M.P.E.P. § 503 states that "A post card receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO."

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

The application is being forwarded to the examiner for appropriate action.

Any inquiry concerning this decision should be directed to Vincent N. Trans whose telephone number is (571) 272-3613.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security

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OFFICE OF PETITIONS

NORRIS, MCLAUGHLIN & MARCUS, P.A.
875 THIRD AVE
18TH FLOOR
NEW YORK, NY 10022

In re Application of :
Domes, et al. : DECISION ON APPLICATION
Application No. 10/179,864 : FOR PATENT TERM ADJUSTMENT
Filed: June 25, 2002 :
Atty. Dkt. No.: METAL 1293-WCG :

This is a decision on the "REQUEST FOR CORRECTION OF PROJECTED PATENT TERM ADJUSTMENT"" filed December 15, 2004. This matter is being properly treated under 37 CFR 1.705(b) as an application patent term adjustment.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **GRANTED**.

The correct Patent Term Adjustment ("PTA") at the time of the issuance is 455 days. The Office will adjust the PAIR screen to reflect that the Patent Term Adjustment (PTA) determination at the time of mailing of the instant letter reflects an adjustment of 455 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

Applicants argue that the correct PTA at the time of allowance is 455 and that there was no failure to engage in reasonable efforts to conclude prosecution.

A review of the application history reveals that as of the time of allowance, an adjustment of 455 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(1) and 1.703(a)(1).

The adjustment of 455 days was errantly reduced 76 days in connection with the response submitted January 17, 2003. A review of the application history indicates that the response submitted January 17, 2003 was timely submitted within three months of the mail date of the Notice to File Corrected Application Paper mailed November 20, 2002 as required under 37 CFR 1.704(b). Therefore, the reduction of 76 days is in error.

Accordingly, at the time of allowance, the application is entitled to an adjustment of 455 days, as argued by applicants.

The required Patent Term Adjustment application fee of $200.00 has been charged to Deposit Number 14-1263, as authorized in the instant application for Patent Term Adjustment.

The application file is being forwarded to the Publications Division for issuance of a patent.

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

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

Enclosure: Copy of Adjustment PAIR Calculation

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LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

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OFFICE OF PETITIONS

In re Application of

Takeshi Kanai

Application No. 10/179,866

Filed: June 25, 2002

Attorney Docket No. SONYJP3.0-943

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed March 17, 2008.

The petition is **granted**.

This application was held abandoned October 26, 2007, after no reply was received to the final Office action mailed June 25, 2007. The notice set forth a shortened statutory period of reply of three-months from its mailing date. No response was received within the allowable period and the application became abandoned on October 26, 2007. Petitioner maintains that the final Office action was never received and provides a copy of the relevant docketing calendar as proof of the same.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded to Technology Center 2100, GAU 2178 where the final Office action will be remailed and the period for reply reset.

Questions 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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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 04/20/2010

Applicant	: Nasser Kehtarnavaz	: DECISION ON REQUEST FOR
Patent Number	: 7576797	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/179,870	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/25/2002	: 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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

10/179873

Paper No.: _____

DATE : 3/15/07

TO SPE OF : ART UNIT 2616

SUBJECT : Request for Certificate of Correction on Patent No.: 7158513

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:

Ok to enter!

LYNN FEILD
SUPERVISORY PATENT EXAMINER

SPE

2616
Art Unit

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30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Takashi Arai	:	
Application No. 10/179,875	:	
Filed: June 26, 2002	:	
Attorney Docket No. 00862.022656	:	

This is a decision on the petition, filed November 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 April 18, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1732 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 for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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In re Patent No. 6802894
Issue Date: October 12,2004
Application No. 10179881
Filed: June 25,2002
Attorney Docket No. JPP-1222CIP2

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

This is a decision on the electronic petition, filed January 9,2009 ,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 January 9,2009 . 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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United States Patent and Trademark Office
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BRADLEY N RUBEN
SUITE 5A
463 FIRST STREET
HOBOKEN NJ 07030

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OFFICE OF PETITIONS

In re Application of
Per Marin : DECISION ON PETITION
Application No. 10/179,904 :
Filed: June 25, 2002 :
Attorney Docket No. 106FD-002A :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed February 23, 2007.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed November 2, 2006. This Notice set a statutory period for reply of three (3) months for issue fee transmittal. No issue fee having been received, the application became abandoned on February 3, 20067.

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

In re Application of :
Scholz, et al. : LETTER REGARDING PTA
Application No. 10/179,905 :
Filed: June 24, 2002 :
Atty. Dkt. No.: 9793/123 :

This letter is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT," filed April 1, 2005. The Office thanks patentees for their good faith and candor in bringing this to our attention.

The Office will adjust the PAIR screen to reflect that the Patent Term Adjustment (PTA) determination at the time of mailing of the Notice of Allowance and Issue Fee Due reflects an adjustment of 403 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

Applicants indicate that the adjustment of 409 days accorded the instant application at the time of allowance may extend the term of the patent by too many days. Applicants request review of the calculation of PTA.

A review of the application history reveals that an adjustment 409 day in accordance with 37 CFR 1.702(a)(1) can be attributed to the Office for failure to mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed.

The adjustment of 409 days is reduced six days for applicants' failure to engage in reasonable efforts to conclude prosecution (or processing) in accordance with 37 CFR 1.704(b). The adjustment began October 24, 2002, the day after the date that is three months after the date that the Notice to File Missing Parts was mailed, and ended October 29, 2002, the date a response to the Notice was received.

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

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

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

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

Enclosure: Copy of Adjustment PAIR Calculation

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Paper No. 12

Pillsbury Winthrop LLP
Intellectual Property Group
725 South Figueroa Street, Suite 2800
Los Angeles, CA 90017-5406

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APR 3 0 2003

OFFICE OF PETITIONS

In re Application of
Robinson et al.
Application No. 10/179,920
Filed: June 24, 2002
Attorney Docket No. 302559/57446

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 13, 2003, to revive the above-identified application.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed July 30, 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 1, 2002.

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

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

Telephone inquiries should be directed to Program Assistant Liana Chase at (703) 306-0482.

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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WASHINGTON, D.C. 20231
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Paper No. 8

GARDERE WYNNE SEWELL, LLP
SUITE 3000
1601 ELM STREET
DALLAS, TX 75201

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APR 17 2003

OFFICE OF PETITIONS

In re Application of	:	
Bauer, et al.	:	
Application No. 10/179,940	:	ON PETITION
Filed: June 19, 2002	:	
Attorney Docket No. 126181-1056	:	

This is a decision on the papers styled, "Petition In Response To Notice Of Omitted Item(s) Filed Under 37 CFR 1.53 Mailed August 5, 2002," filed on October 2, 2002, which is being treated as a petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of June 19, 2002, including pages 290-308 of the specification.

The petition is **granted**.

The application was filed on June 19, 2002. However, on August 5, 2002, the Office of Initial Patent Examination (OIPE) mailed a "Notice Of Omitted item(s)" (Notice) that stated the application had been accorded a filing date, but pages 290-308 of the specification appear to have been omitted.

In response, on October 2, 2002, the present petition was filed. The petition is accompanied by a preliminary amendment and clean and marked-up copies of the specification.

Petitioner contends that pages 290 through 308 of the specification were filed as part of the original specification, but that the page numbering is incorrect. A review of the as filed specification confirms that all the pages of the specification were filed on June 19, 20002, and that a page numbering error gives the appearance that pages 290 through 308 of the specification were omitted. As such no pages from the specification were actually omitted. Petitioner has submitted a

preliminary amendment with clean and marked-up copies of the specification that corrects the page numbering error.

Please note, the "Notice" mailed August 5, 2002, was correct in advising applicants that pages 290-308 of the specification appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn.

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

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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P O BOX 747
FALLS CHURCH, VA 22040-0747

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MAY 23 2007

OFFICE OF PETITIONS

In re Application of	:	
Stefan Lynggaard et al	:	
Application No. 10/179,964	:	DECISION ON PETITIONS
Filed: June 26, 2002	:	
Attorney Docket No. 3782-0231P	:	

This is a decision on the petition treated under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed December 21, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to prior-filed nonprovisional Application No. 09/987,188, filed November 13, 2001, and provisional Application No. 60/261,122, filed January 12, 2001, as set forth in the concurrently filed amendment. This is also a decision on the request under 37 CFR 1.48(a) to add Petter Ericson as an inventor in this application.

The petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) is **DISMISSED.**

The petition under 37 CFR 1.48(a) is **GRANTED**

DISCUSSION OF PETITION UNDER 37 CFR 1.48(a)

The request under 37 CFR 1.48(a) seeks to add Petter Ericson as an inventor in this application.

A request under 37 CFR 1.48(a) requires:

(1) A request to correct the inventorship that sets forth the desired inventorship change;
(2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or part;
(3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;
(4) The processing fee set forth in § 1.17(i); and
(5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee.

The request satisfies the above requirements. Accordingly, the request to add Petter Ericson as an inventor in this application is granted.

DISCUSSION OF PETITION UNDER 37 CFR 1.78(a)(3) and 1.78(a)(6)

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

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(iii) and 1.78(a)(5)(i) and 1.78(a)(5)(iii) of the prior-filed application, unless previously submitted;

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

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition does not comply with items (1) and (3) above.

The amendment includes a new claim for benefit of priority to nonprovisional Application No. 09/987,188 and also, it appears, although not clear, to provisional Application No. 60/261,122.

As to item (1) above, the rule at 37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "**This application is a continuation of Application No. 10/---, filed---.**" **A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.78(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated.** Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications. The amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

Next, the statement of unintentional delay presented in the petition does not comply with item (3) above. Also, if petitioner is claiming benefit of priority to the above-noted provisional application, the statement of unintentional delay should track the language. If petitioner is not claiming benefit of priority to provisional Application No. 60/261,122, all reference to this application should be deleted from the amendment.

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition thereunder and either an Application Data Sheet 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.

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

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

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

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

Any questions concerning this matter may be directed to the Frances Hicks at (571) 272-3218.

Brian Heam
Senior Petitions Examiner
Office of Petitions

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AUG 2 4 2007

OFFICE OF PETITIONS

In re Application of :
Stefan Lynggaard et al :
Application No. 10/179,964 :
Filed: June 26, 2002 :
Attorney Docket No. 3782-0231P :

DECISION ON PETITION

This is a decision on the renewed petition treated under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed July 17, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to prior-filed nonprovisional Application No. 09/987,188, filed November 13, 2001, and provisional Application No. 60/261,122, filed January 12, 2001

The petition is **DISMISSED**

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

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

The petition fails to comply with item (1) above. In this regard, the amendment submitted with the petition incorrectly

references provisional Application No. 60/621,122, rather than 60/261,122. Provisional Application No. 60/621,122 does not have a common inventor with parent Application No. 09/987,188. The undersigned sincerely apologizes for the oversight in not noting this incorrect application number in the prior amendment.

In view of the above, a renewed petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) must be submitted, **along with an amendment in a separate paper, and not as part of the petition**, which references the correct provisional application. The reference to the prior-filed applications may also be submitted in a Supplemental Application Data Sheet and be signed in accordance with 37 CFR 1.33(b).

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

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

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

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

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

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.78(a)(3) and (a)(6).

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

Frances Hicks
Petitions Examiner
Office of Petitions

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OCT 17 2007

OFFICE OF PETITIONS

In re Application of	:	
Stefan Lynggaard et al	:	
Application No. 10/179,964	:	DECISION ON PETITION
Filed: June 26, 2002	:	
Attorney Docket No. 3782-0231P	:	

This is a decision on the renewed petition treated under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed October 9, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to prior-filed nonprovisional Application No. 09/987,188, filed November 13, 2001, and provisional Application No. 60/261,122, filed January 12, 2001

The petition is **granted**.

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

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

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

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

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

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 application is being referred to Technology Center Art Unit 2116 for consideration by the examiner of the claim for benefit of priority under 35 U.S.C. § §120 and 119(e) to the prior-filed nonprovisional and provisional applications.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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DEC 2 1 2007

OFFICE OF PETITIONS

In re Application of	:	
Stefan Lynggaard et al	:	
Application No. 10/179,964	:	DECISION GRANTING PETITION
Filed: June 26, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 3782-0231P	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 17, 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 October 10, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2116 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy
Petitions Examiner
Office of Petitions

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

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FALLS CHURCH VA 22040-0747

In re Application of
Lynggaard et al.
Application No. 10/179,966
Filed: June 26, 2002
For: Reading Pen
Attorney Docket No: 3782-0237P
Pub. No.: US 2003/0029919 A1
Pub. Date: February 13, 2003

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NOV 15 2004

OFFICE OF PETITIONS

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on May 14, 2004, for the above-identified application.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains a copy of the translated provisional application, labeled "United States Patent Application", which was filed on the filing date and not a copy of the translated Swedish patent application filed as the specification and labeled "United States Patent Application", which was filed October 16, 2002.

37 CFR 1.221(b) states "Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." .[1]

The request for corrected publication received on May 14, 2004, was not timely filed under 37 CFR 1.221(b), and has not been considered because it was not timely filed.

To avoid this type of problem in the future, applicants' representative should submit translations of the provisional application to the provisional application file and/or make sure that the application papers are conspicuously marked. If the translation of the provisional application is submitted with the non-provisional application, the translation of the provisional application should be conspicuously identified so that the two sets of papers are not mishandled by the Office.

---

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

The 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), must be submitted via the EFS system and questions or request for reconsideration of this decision, should be addressed as follows:

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

By facsimile: (703) 872-9306

Inquires concerning this communication should be directed to Mark Polutta at (571) 272-7709.

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

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NOV 23 2005

OFFICE OF PETITIONS

Applicant: Lynggaard et al.
Appl. No.: 10/179,966
Filing Date: June 26, 2002
U.S. Patent No.: 6,966,495
Issue Date: November 22, 2005
Title: DEVICE, METHOD AND COMPUTER PROGRAM FOR POSITION DETERMINATION
Attorney Docket No.: 3782-0237P
Pub. No.: US 2003/0029919 A1
Pub. Date: February 13, 2003

This is in response to the "Request for Reconsideration of Request to Publish Correct Application", which was received on January 14, 2005, for the above-identified application.

The request is DISMISSED as moot.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1]

Since the application has already issued as U.S. Patent No. 6,966,495 on November 22, 2005, the request is deemed moot.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

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

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

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ROBERT W. KOCHER
4828 3RD ST. NORTH
ARLINGTON, VA 22203

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JUN 20 2005

OFFICE OF PETITIONS

In re Application of	:	
Robert William Kocher	:	
Application No. 10/179,971	:	ON PETITION
Filed: June 26, 2002	:	
For: PERSONNEL AND VEHICLE	:	
IDENTIFICATION SYSTEM USING THREE	:	
FACTORS OF AUTHENTICATION	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 1, 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 May 17, 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 August 18, 2004.

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

This matter is being referred to Technology Center AU 2635.

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

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ROBERT W. KOCHER
4828 N. 3RD STREET
ARLINGTON VA 22203

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AUG 0 8 2008

In re Application of	:	
Robert William Kocher	:	
Application No. 10/179,971	:	ON PETITION
Filed: June 26, 2002	:	
Attorney Docket No. N/A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 4, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed August 10, 2006, which set a shortened statutory period for reply of three (3) months. A three (3) month extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 11, 2007. The Notice of Abandonment was mailed May 2, 2007.

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

The proposed reply filed herewith does not place the application in condition for allowance. 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).

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

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
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By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

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

Chris Bottorff
Petitions Examiner
Office of Petitions

Enclosed: PTOL-303

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/179,971	KOCHER, ROBERT WILLIAM	
	Examiner	Art Unit	
	BRIAN A. ZIMMERMAN	2612	

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

THE REPLY FILED 04 June 2007 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 _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☒ They raise the issue of new matter (see NOTE below);
   (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or .
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Brian A Zimmerman/
Supervisory Patent Examiner, Art Unit 2612

Brian A Zimmerman
SPE
Art Unit: 2612

Continuation of 3. NOTE: The claims presented includes the limitation that the algorithm can be used tointerpret an"other unique meaning" which has not been previously considered. Furthermore, the reasons for allowance offered in the Office action 8/10/06 discussed the allowable subject matter. The proposed amendment presents that limitation in the alternative only. Since it has been shown that the prior art teaches one of the other alternatives the claims are not in condition for allowance.

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ROBERT W. KOCHER
4828 N. 3RD STREET
ARLINGTON VA 22203

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FEB 18 2009

OFFICE OF PETITIONS

In re Application of	:	
Robert W. Kocher	:	
Application No. 10/179,971	:	DECISION ON PETITION
Filed: June 26, 2002	:	
Attorney Docket No. N/A	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed November 6, 2008, to revive the above-identified application.

The renewed petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2612 for appropriate action by the Examiner in the normal course of business.

for Brian W. Brown
Petitions Examiner
Office of Petitions

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Paper No. 4

Keating & Bennett LLP
Suite 312
10400 Eaton Place
Fairfax VA 22030

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OCT 0 2 2002

OFFICE OF PETITIONS

In re Application of
Takeshima, et al.
Application No. 10/180,002
Filed: June 26, 2002
Attorney Docket No. 36856.729
For: PIEZOELECTRIC ELECTROACOUSTIC TRANSDUCER

ON PETITION

This is a decision on the petition filed August 20, 2002 (certificate of mailing date August 16, 2002), requesting that the Notice of Omitted Items in a Nonprovisional Application (Notice), mailed July 26, 2002, be withdrawn. The petition will be treated under 37 CFR 1.53(e).

The application was filed on June 26, 2002. However, on July 26, 2002, the Office of Initial Patent Examination mailed a Notice stating that the application had been accorded a filing date of June 26, 2002, and advising applicants that Figures 1a & 1b described in the specification appeared to have been omitted.

In response, the present petition was filed. The petition does not allege and is not accompanied by any evidence that any sheet of drawing containing the labels "Fig. 1a" & "Fig. 1b" was present in the Office on June 26, 2002. However, petitioners explain that Fig. 1a & Fig. 1b were not missing on June 26, 2002. Petitioners claim that the application, filed June 26, 2002, included a sheet of drawings containing two figures, but the figures had only one label -- "Fig. 1". Applicants state that the figures should be labeled "Fig. 1a" & "Fig. 1b". The petition is accompanied by a copy of the sheet of drawings in question showing the correct figure labels.

It is obvious from the petition that no drawing was actually missing on June 26, 2002. Rather, the drawings of "Fig. 1a" & "Fig. 1b" were simply mislabeled as a result of petitioners' filing error. However, the Notice mailed July 26, 2002, was correct in stating that Figure 1a & 1b described in the specification appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn.

The petition is **dismissed**.

Since the present petition was not necessitated by any error on the part of the Office, the $130.00 petition fee will not be refunded.

A preliminary amendment adding the labels "Fig. 1a" & "Fig. 1b" to the mislabeled drawing figures should be filed prior to 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 26, 2002, using only the sheets of drawings filed on that date.

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

E. Shirene Willis

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

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Washington DC 20003

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OFFICE OF PETITIONS

In re Application of
Mark Williams
Application No. 10/180,039
Filed: June 27, 2002
Attorney Docket No. TK266

DECISION ON PETITION

This is a decision on the "LETTER REQUESTING REVIVAL OF PATENT APPLICATION OR, IN THE ALTERNATIVE, PETITION UNDER RULE 137(b) TO REVIVE AN UNINTENTIONALLY ABANDONED APPLICATION," filed January 19, 2007, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment, or in the alternative, petition under 37 CFR 1.137(b) to revive the above-identified application.

On June 1, 2004, the Office mailed a nonfinal Office Action, which set a three-month shortened statutory period for reply. In the absence of a timely filed response, the application was held abandoned on September 2, 2004. A Notice of Abandonment was mailed on January 24, 2005.

In the petition, the practitioner asserted that he did not receive the nonfinal Office Action because the USPTO mailed the nonfinal Office action to an incorrect correspondence address. Additionally, the practitioner stated that a change of correspondence address was filed in this application on January 26, 2004, before the mailing of the nonfinal Office Action. A copy of the change of correspondence address, a certificate of facsimile dated January 26, 2004, and an Auto-Reply Facsimile Transmission, accompany the petition. Petitioner requested that the Office withdraw the holding of abandonment, re-mail the nonfinal Office Action, and restart the period for reply.

A review of the record indicates that the practitioner submitted a change of correspondence address with the USPTO on January 26, 2004; however, it was not entered. Consequently, the nonfinal Office action was mailed to an incorrect address and was returned to USPTO. The record supports petitioner's assertion of non-receipt of the nonfinal Office Action of June 1, 2004.

The Office has corrected the correspondence address and made it of record. The petition under 37 CFR 1.181 is **granted**.

In view of the granting of the petition under 37 CFR 1.181, the petition under 37 CFR 1.137(b) is **dismissed** as moot. No petition fee is necessary.

Technology Center Art Unit 3682 has been advised of this decision. The matter is being referred to the Technology Center's technical support staff for mailing of a new nonfinal Office action. The three (3) month shortened statutory time period for responding to the nonfinal Office action will be set to run from the mailing date of the new nonfinal Office action.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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438 UNIVERSITY AVENUE
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TORONTO ON M5G2K-8 CA CANADA

PROCESSED BY
PG PUB DIVISION

SEP 27 2004

Applicant: Behai
Appl. No.: 10/180,050
Filing Date: June 27, 2002
Title: HIGH CAPACITY OPTICAL NODE
Attorney Docket No.: 92644-1
Pub. No.: US 2004/0001670 A1
Pub. Date: January 1, 2004

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on February 27, 2004 for the above-identified application.

The request is granted.

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

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

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

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

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OFFICE OF PETITIONS

In re Application of
Kohmura et al.
Application No.10/180,070
Filed: June 27, 2002
Title of Invention: Method of Producing Optical Fiber Preform and Sintering Apparatus

ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed August 17, 2006.

This above-identified application became abandoned for failure to file a proper reply to the final Office Action of February 15, 2006. The final Office Action set a three (3) month shortened statutory period for reply. An amendment after final Office Action and a three month extension of time were filed on August 15, 2006. An Advisory Action mailed on September 26, 2006 informed petitioner the application was not placed in condition for allowance. Accordingly, this application became abandoned on August 16, 2006. A Notice of Abandonment was mailed on September 26, 2006.

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

The Request for Continued Examination (RCE), and previously submitted amendment will be forwarded to Technology Center 1700 for further processing.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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OCT 25 2005

In re Application of	:	
Gunma-Ken	:	NOTICE OF WITHDRAWAL
Serial No. 10/180,072	:	FROM ISSUE
Filed: June 27, 2002	:	UNDER 37 CFR 1.313(b)
For: DERMATIC COSMETIC MATERIAL	:	

The above-identified application is withdrawn from issue after payment of the issue fee due to a mistake on the part of the Office. See 37 CFR 1.313(b).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquiries should be directed to Christopher Low at (571) 272-0951.

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

Bruce M. Kisliuk
Director, Technology Center 1600

MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON VA 22201

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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/180,072	06/27/2002	Koji Sakuta	TAKIT-144 D1

CONFIRMATION NO.
9652

MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON VA 22201

Date Mailed: May 19, 2006

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.

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 filed in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process.

2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

3. ☑ The Application was published in compliance with 35 U.S.C. 122(b), and it is available on the USPTO web site at http://www.uspto.gov/patft/index.html.

The application **has/will be published** as scheduled.

Telephone inquiries should be directed Office of Patent Publication, Pre-Grant Publication Division 703-605-4283.

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

Rev. 10/01

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2-27-08

		chk
In re application of	SAITO.	: DECISION ON
Serial no.	10/180,099	: PETITION
Filed:	June 27, 2002	:
For:	OPTICAL RECORDING MEDIUM	:
	RECORDING METHOD AND MEDIUM	:
		:

This is a decision on the PETITION FILED UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION dated October 18, 2007.

Petitioner requests withdrawal of the finality because the examiner raised a new obviousness-type double patenting rejection in the final rejection. Petitioner argues the new rejection was not necessitated by amendment or based on information submitted in an information disclosure statement.

DECISION

After reconsideration, the examiner has allowed the application.

Therefore, the petition is **DISMISSED**.

Jacqueline M. Stone

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

SUGHRUE, MION, PLLC
2100 PENNSYLVANIA AVENUE. NW, SUITE 800
WASHINGTON, D.C. 20037

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OFFICE OF PETITIONS

FITZPATRICK, CELLA, HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112-3801

In re Patent No. 6,945,652	:
Issued: September 20, 2005	: DECISION UNDER 37 CFR
Application No. 10/180,114	: 1.705(d)
Filed: June 27, 2002	:
Docket No.: 03560.003067	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)," filed November 17, 2005.

The application for PTA under 37 CFR 1.705(d) is hereby **DISMISSED**.

The above-identified application matured into U.S. Patent No. 6,945,652 on September 20, 2005. The patent issued with a PTA of 1 day. The instant application for PTA was timely filed November 17, 2005. Patentees argue that the patent is entitled to an adjustment of 215 days.

A review of the application history reveals that an adjustment of 347 days can be attributed to the Office. The adjustment was properly reduced 346 days resulting in an overall adjustment of 1 day.

Patentees argue that the reduction of 94 days under 37 CFR 1.704(c)(10) assessed in connection with a request for refund is in error. Patentees are advised that submission of an amendment or other paper after Notice of Allowance has been given or mailed results in a reduction of any patent term adjustment. A request for refund is specifically deemed an "other paper" for which reduction will be assessed. *See* MPEP 2732 and *Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed*, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001).

Patentees further argue that the reduction of 120 days under 37 CFR 1.704(c)(10) in connection with the Information Disclosure Statement (IDS) submitted February 24, 2005 is in error. Patentees argue that the IDS was submitted at the "direct

request" of the examiner, however, review of the official record does not reveal that such a request was made by the examiner. Accordingly, the 120 day reduction is upheld.

In view thereof, the patent is entitled to an adjustment of 1 day, as indicated thereon.

Any request for reconsideration of this decision must be submitted within TWO MONTHS of the mail date of this decision. This period of time may not be extended under 37 CFR 1.136.

The required application fee of $200.00 has been charged to patentees' deposit account as authorized.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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FITZPATRICK, CELLA, HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112-3801

In re Patent No. 6,945,652	: DECISION UNDER 37 CFR
Issued: September 20, 2005	: 1.705(d) and NOTICE OF INTENT
Application No. 10/180,114	: TO ISSUE CERTIFICATE OF
Filed: June 27, 2002	: CORRECTION
Docket No.: 03560.003067	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)," filed May 22, 2006.

The application for PTA under 37 CFR 1.705(d) is hereby **GRANTED**.

The above-identified application matured into U.S. Patent No. 6,945,652 on September 20, 2005. The patent issued with a PTA of 1 day. The instant application for PTA was timely filed November 17, 2005. An application under 37 CFR 1.705(d) was filed November 17, 2005 and dismissed March 20, 2006.

At the time of issuance, the patent was entitled to an adjustment of 121 days. An adjustment of 347 days could be attributed to the Office for delays under 37 CFR 1.702(a). A reduction of 226 days could be attributed to applicants for failure to engage in reasonable efforts to conclude prosecution under 37 CFR 1.704.

Patentees continue to argue that the adjustment was improperly reduced 120 days under 37 CFR 1.704(c)(10) in connection with the Information Disclosure Statement (IDS) submitted February 24, 2005. Patentees argue that the IDS was submitted at the "direct request" of the examiner.

Patentees' arguments have been carefully reconsidered and found convincing. While a review of the record does not reveal such a written request by the examiner, the IDS submitted February 24, 2005 does appear to memorialize a conversation with the examiner relative to resubmission of the previously submitted IDS.

In view thereof, the reduction of 120 days has been restored.

Therefore, at the time of issuance, the patent was entitled to an overall adjustment of 121 days (347 days of adjustment for

Office delay and 226 days of reduction for applicants' failure to engage in reasonable efforts to conclude prosecution).

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 121 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

Enclosure: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	6,945,652 B2
DATED	:	September 20, 2005
INVENTOR(S)	:	Sakata, 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 1 days

Delete the phrase "by 1 days" and insert – by 121 days--

Day : Friday
Date: 9/29/2006

PALM INTRANET

Time: 13:20:27

PTA Calculations for Application: 10/180114			
Application Filing Date:	06/27/2002	PTO Delay (PTO):	347
Issue Date of Patent:	09/20/2005	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	346
Post-Issue Petitions:	0	Total PTA (days):	121
PTO Delay Adjustment:	120		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
51	09/29/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	120		
44.5	08/31/2005	PTA 36 MONTHS			
44	09/20/2005	PATENT ISSUE DATE USED IN PTA CALCULATION	256		40
43	08/05/2005	RECEIPT INTO PUBS			
42	08/04/2005	DISPATCH TO FDC			
41	08/04/2005	APPLICATION IS CONSIDERED READY FOR ISSUE			
40	09/07/2004	ISSUE FEE PAYMENT VERIFIED			
39	08/04/2005	RECEIPT INTO PUBS			
38	07/28/2005	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
37	07/25/2005	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
36	02/24/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		120	38
35	03/23/2005	RECEIPT INTO PUBS			
34	11/22/2004	REQUEST FOR REFUND		94	38
33	08/23/2004	REFERENCE CAPTURE ON IDS			
32	08/23/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		91	38
31	10/14/2004	RECEIPT INTO PUBS			
30	09/07/2004	ISSUE FEE PAYMENT RECEIVED			
29	08/31/2004	RECEIPT INTO PUBS			
28	08/19/2004	WORKFLOW - FILE SENT TO CONTRACTOR			
27	08/05/2004	MAIL NOTICE OF ALLOWANCE	83		21
26	08/04/2004	ISSUE REVISION COMPLETED			
	.	NOTICE OF ALLOWANCE DATA VERIFICATION			

25	08/04/2004	COMPLETED			
24	08/04/2004	NOTICE OF ALLOWABILITY			
23	07/26/2004	FILE MARKED FOUND			
22	07/20/2004	DATE FORWARDED TO EXAMINER			
21	01/14/2004	RESPONSE AFTER NON-FINAL ACTION		41	11
20	02/18/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	01/14/2004	NEW OR ADDITIONAL DRAWING FILED			
18	01/14/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	01/22/2004	FILE MARKED LOST			
15	11/06/2003	CASE DOCKETED TO EXAMINER IN GAU			
14	10/14/2003	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
13	09/29/2003	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
12	09/23/2003	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
11	09/04/2003	MAIL NON-FINAL REJECTION	8		-1
10	08/28/2003	NON-FINAL REJECTION			
9	12/18/2002	PRELIMINARY AMENDMENT			
8	11/08/2002	CORRESPONDENCE ADDRESS CHANGE			
7	09/16/2002	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
6	08/08/2002	CASE DOCKETED TO EXAMINER IN GAU			
5	08/02/2002	APPLICATION DISPATCHED FROM OIPE			
4	07/31/2002	APPLICATION IS NOW COMPLETE			
3	07/10/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	07/10/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	06/27/2002	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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OCT 26 2007

OFFICE OF PETITIONS

In re Application of	:	
Ramirez, Nick	:	
Application No. 10/180,134	:	ON PETITION
Filed: June 27, 2007	:	
Attorney Docket No. P13072	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 20, 2007, to revive the above-identified application.

The petition is **GRANTED.**

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

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

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

Cc: GUOJUN ZHOU
2111 NE 15TH STREET
HILLSBORO, OR 97124

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INTELLECTUAL PROPERTY LAW
11400 BURNET ROAD
AUSTIN TX 78758

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OFFICE OF PETITIONS

In re Application of
Stephen B. Boston et al.
Application No. 10/180,164
Filed: June 25, 2002
Attorney Docket No.: AUS920020347US1

ON PETITION

This is a decision on the petition filed November 21, 2007 under 37 CFR 1.137(b), [1] to revive the above-identified application.

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

This application became abandoned October 15, 2007 for failure to timely pay the issue fee on or before October 11, 2007. Accordingly, a Notice of Abandonment was mailed November 6, 2007.

The issue fee, publication fee and petition fee have all been applied.

All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

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COMMISSIONER FOR PATENTS
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Paper No. 5

HAYNES BEFFEL & WOLFELD LLP
P O BOX 366
HALF MOON BAY, CA 94019

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SEP 23 2003
OFFICE OF PETITIONS

In re Application of
Tuung Luoh
Application No. 10/180,168
Filed: June 26, 2002
Attorney Docket No. MXIC 1526-1

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 to the Notice to File Missing Parts of Nonprovisional Application mailed July 30, 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 at midnight on September 30, 2002.

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

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

Retta Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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LUMEN INTELLECTUAL PROPERTY SERVICES, INC.
2345 YALE STREET
2ND FLOOR
PALO ALTO CA 94306

COPY MAILED
SEP 15 2006
OFFICE OF PETITIONS

In re Application of	:	
Faul, et al.	:	
Application No. 10/180, 169	:	DECISION ON PETITION
Filed: April 6, 2004	:	TO WITHDRAW
Attorney Docket No. S03-013/US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 25, 2006.

The request is **NOT APPROVED**.

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

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: The Board of Trustees of the
Leland Stanford Junior University
Office of Technology Licensing
1705 El Camino Real
Palo Alto, CA 94306

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/180,182	06/26/2002	Krishamohan Sharma	1018018284386HEC	1056

7590 02/16/2005

Paul A. Leipold
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester, NY 14650-2201

EXAMINER
SCHWARTZ, PAMELA R

ART UNIT	PAPER NUMBER
1774	

DATE MAILED: 02/16/2005

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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FEB 1 5 2005

In re Application of	:	
Krishamohan Sharma et al.	:	
Serial Number : 10/180,182	:	WITHDRAWAL
Filed : June 26, 2002	:	FROM
For : INK JET RECORDING ELEMENT	:	ISSUE

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

The application is being withdrawn to permit reopening of prosecution. The reasons therefore will be communicated to you by the examiner.

PTO records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee to applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a deposit account.

The application is being forwarded to the examiner for action.

Telephone inquiries should be directed to Rena Dye at 571-272-3186.

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

Paul A. Leipold
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester, NY 14650-2201

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/180,187	06/26/2002	Joseph F. Bringley	84676HEC	8012

7590 02/16/2005

Paul A. Leipold
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester, NY 14650-2201

EXAMINER
SCHWARTZ, PAMELA R

ART UNIT	PAPER NUMBER
1774	

DATE MAILED: 02/16/2005

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FEB 1 5 2005

In re Application of	:	
Joseph F. Bringley et al.	:	
Serial Number : 10/180,187	:	WITHDRAWAL
Filed : June 26, 2002	:	FROM
For : INK JET PRINTING METHOD	:	ISSUE

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

The application is being withdrawn to permit reopening of prosecution. The reasons therefore will be communicated to you by the examiner.

PTO records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee to applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a deposit account.

The application is being forwarded to the examiner for action.

Telephone inquiries should be directed to Rena Dye at 571-272-3186.

JMStone

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

Paul A. Leipold
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester, NY 14650-2201

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAIL

MAY 16 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

John T. Peoples
14 Blue Jay Court
Warren, NJ 07059

In re application of:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Dinesh K. Anvekar, et al.	
Application No. 10/180,189	
Filed: June 26, 2002	
For: MULTI-PARTY CONCURRENCE THROUGH SHORT MESSAGE SERVICE EXCHANGES	

This is a decision on the request for withdrawal as attorney/agent and change of correspondence address filed on January 24, 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.**

John T. Peoples 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: Bhaskarpillai Gopinath
255 Old New Brunswick Road
Suite N320
Piscataway, New Jersey 08854

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JERRY H. NOH
SUITE 2741
3435 WILSHIRE BLVD
LOS ANGELES, CA 90010

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DEC 07 2005

OFFICE OF PETITIONS

In re Application of	:	
Simon Suh	:	
Application No. 10/180,192	:	DECISION ON PETITION
Filed: June 25, 2002	:	TO WITHDRAW
Attorney Docket No. A339-JN	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 9, 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).

The request cannot be approved because 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). A review of the official records indicates that the application went abandoned for failure to file a reply to the non-final Office action mailed April 14, 2004.

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 Wan Laymon at 571-272-3220.

Denise Pothier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/180,197	06/26/2002	David P. Wilkinson	11608US05	9689

23446 7590 01/28/2005

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

EXAMINER
KALAFUT, STEPHEN J

ART UNIT	PAPER NUMBER
1745	

DATE MAILED: 01/28/2005

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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JAN 28 2005

In re Application of	:	
David P. Wilkinson	:	
Serial Number : 10/180,197	:	WITHDRAWAL
Filed : June 26, 2002	:	FROM
For : FUEL CELL FLUID DISTRIBUTION	:	ISSUE
LAYER HAVING INTEGRAL SEALING	:	
CAPABILITY	:	

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

The application is being withdrawn to permit reopening of prosecution. The reasons therefore will be communicated to you by the examiner.

PTO records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee to applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a deposit account.

Telephone inquiries should be directed to Patrick Ryan at 571-272-1292.

The application is being forwarded to the examiner for prompt appropriate action.

JMStone

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

McAndrews Held & Malloy, LTD
500 West Madison Street
Suite 3400
Chicago, IL 60661

cc:Allowed Files, Pk3-910

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Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 5

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OFFICE OF PETITIONS

KENYON & KENYON
ONE BROADWAY
NEW YORK, NY 10004

In re Application of
Seligsohn et al.
Application No. 10/180,217
Filed: June 25, 2002
Attorney Docket Number:
2648/601

DECISION ON PETITION

This is a decision on the petition filed September 30, 2002, requesting that the above-identified application be accorded a filing date of June 25, 2002, with drawing Figure 10 as part of the original disclosure.

The petition is granted.

The application was deposited on June 25, 2002. However, on July 31, 2002, the Office mailed a "Notice to File Missing Parts of Nonprovisional Application" stating that the application had been accorded a filing date of June 25, 2002, and advising applicants that Figure 10 described in the specification appeared to have been omitted from the application.

Petitioner responds with the instant petition wherein Petitioner avers that the drawings in the above-identified application were incorporated by reference to prior nonprovisional application no. 09/157,701.

Applicants are advised that a petition is not necessary in this instance to add the drawing figures. New drawings may be entered by the primary examiner without a petition so long as the drawings contain no new matter. See, MPEP § 608.02(a). Applicants may add figure(s) described in the specification on the basis that the drawings are not new matter.

MPEP 201.06(c) states:

> . . . an applicant may incorporate by reference the prior application by including, in the continuation or divisional application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated by 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 continuation or divisional application to include any subject matter in such prior application(s), without the need for a petition provided the continuation or divisional application is entitled to a filing date notwithstanding the incorporation by reference. (emphasis supplied).

The petition fee will not be refunded, since the petition was not necessitated by any error on the part of the USPTO.

This application is being forwarded to the Office of Initial Patent Examination, Customer Corrections, for further processing, with the filing date of June 25, 2002, using Figures 1-9 filed on that date.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Derek L. Woods at (703) 305-0014.

Christina Tartera Donnell

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

Conferee: Christina Donnell, Esq.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 9

BEUSSE BROWNLEE BOWDOIN
& WOLTER, P.A.
390 NORTH ORANGE AVE
SUITE 2500
ORLANDO, FL 32801

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JUN 0 9 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of
Drown et al.
Application No. 10/180,221
Filed: June 25, 2002
Attorney Docket No. Cheung 3-2-2-35-7/031

This decision concerns the March 12, 2003 petition under 37 CFR 1.47(b).

The petition is **DISMISSED.**

Five inventors are named in this application. The petition asserts that 1 of the 5 inventors refuses to sign the declaration, and requests that the assignee be allowed to file this application under 37 CFR 1.47(b), i.e., on behalf of and as agent for the non-signing inventor.

The petition encloses a $100 petition fee while $130 is required, but does not authorize the Office to charge any fee deficiency to a deposit account. **The petition is thus dismissed.**[1] In addition, the Office notes that:

(1) A petition under 37 CFR 1.47(b) is only appropriate when none of the named inventors is available. In the instant case, a petition under 37 CFR 1.47(a) would be proper.

(2) Under 37 CFR 1.47(a), the available inventors may file the application on behalf of themselves as well as the non-signing inventor, provided that a *bona fide* attempt was made to present to that inventor, for review and signature, **a copy of the entire application (specification including claims; drawings)**, and that the latter refuses to join in this application.[2]

(3) The declaration (**first supplemental declaration)** enclosed with the instant

---

[1] 37 CFR 1.47(a) (If a joint inventor refuses to join in an application . . . [t]he oath or declaration . . . **must** be accompanied by a petition . . . the **fee** set forth in §1.17(h) . . .). (emphasis added)

[2] See MPEP section 409.03(d) (Rev. 1, Feb. 2003) (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** . . . 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.).

petition is defective, in that, it contains alterations not initialed or dated. The inventors who made alterations in their signature blocks must re-execute the declaration, initial and date the alterations; or simply re-execute a revised declaration that does not require alterations.

(4) Jennifer Lynn Drown was the first inventor listed in the **original declaration** filed on September 5, 2002 in response to the July 26, 2002 Notice to File Missing Parts of Nonprovisional Application.[3] Therefore, the inventorship for the instant application has been corrected to "Drown et al." from "Cheung et al."[4] If the order appearing in the original declaration was incorrect and is desired to be changed, a **second supplemental declaration** listing the inventors in the proper order must be submitted, and be accompanied by a petition under 37 CFR 1.182, along with a $130 petition fee.[5]

To prevent abandonment of this application,[6] a §1.47(a) petition must be filed within **TWO MONTHS** of the mailing date of this decision, and should be addressed as follows:

by mail/by hand: Commissioner for Patents, USPTO
Office of Petitions
Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

by fax: (703) 308-6916
Attn: Office of Petitions

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

---

[3] The 9/5/02 original declaration was not executed by all the named inventors, and thus is not a complete response. However, even though the instant §1.47 petition was filed more than 2 months after mailing of the Notice of Missing Parts, Assignee has not been assessed an extension-of-time fee since the Office of Initial Patent Examination apparently did not mail a notice of incomplete reply.

[4] MPEP section 605.04(f) Rev. 1, Feb. 2003).

[5] See *id.* **The §1.182 petition should be filed concurrently with the §1.47(a) petition. The §1.47(a) petition should only supplement, and not re-iterate, the information already provided in the instant petition.**

[6] See 37 CFR 1.53(f) (If an application which has been accorded a filing date . . . does not include an oath or declaration . . . pursuant to §1.63 . . . , applicant will be notified and given a period of time within which to . . . file an oath or declaration . . . to avoid abandonment).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 11

BEUSSE BROWNLEE BOWDOIN
& WOLTER, P.A.
390 NORTH ORANGE AVE
SUITE 2500
ORLANDO, FL 32801

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AUG 0 4 2003

OFFICE OF PETITIONS

In re Application of
Drown et al.
Application No. 10/180,221
Filed: June 25, 2002
Attorney Docket No. Cheung 3-2-2-35-7/031

ON PETITION

This decision concerns the July 29, 2003 renewed petition under 37 CFR 1.47(a).

The renewed petition is **DISMISSED.**

Five inventors are named in this application. The previous petition under 37 CFR 1.47(a), filed on March 12, 2003, alleged that 1 of the 5 inventors, Jennifer Lynne Drown ("Drown"), refused to sign the declaration. That petition was dismissed on June 9, 2003 for lacking the $130 petition fee.[1]

The instant renewed petition encloses a $130 check for the petition fee, and a declaration by Gwendolyn Ramsey ("Ramsey") ("Ramsey Declaration"), assistant to counsel for Assignee. Apparently, on January 28, 2003, Ramsey mailed a copy of the entire application (specification including claims; drawings) to Drown's last known address supplied by Assignee. The conclusion in the March 12, 2003 petition that Drown refused to join in this application was drawn from the fact that Drown had not responded to the application papers mailed to her on January 28, 2003, and that the mailed package was not returned to counsel.

The petition also states that counsel's paralegal conducted searches in various databases but was unable to locate Drown by either her address or Social Security Number. If, indeed, Drown cannot be reached after a diligent effort to locate her, the available inventors may file the application on behalf of themselves as well as Drown, provided that the petition includes Drown's last known address; and a statement of facts, signed by a person with firsthand knowledge of the facts recited therein, establishing that a **diligent effort** had been made to locate Drown, and that notwithstanding such an effort, Drown could not be found.[2]

---

[1] That petition enclosed a $100 payment, but did not authorize the USPTO to charge the $30 deficiency to any deposit account. The $100 overpayment has been refunded.

[2] 37 CFR 1.47(a); MPEP section 409.03(d) INVENTOR CANNOT BE REACHED (Rev. 1, Feb. 2003).

The Office notes that:

(1) The petition has not supplied any evidence of the searches allegedly conducted to locate Drown;

(2) Through www.Lexis.com (Public Records/People, Business & Asset Locators), the Office found the name "Jennifer Lynne Drown" associated with an address different from that provided in the petition, and a partial Social Security Number that appears to match Drown's Social Security Number as shown in her April 2000 employment agreement with Lucent Technologies.[3]

In view of the above, the Office concludes that a reasonably diligent effort had not been made to locate Drown before it was concluded that she refused to join in this application. The petition is thus dismissed.

In addition, the Office agrees with counsel that the supplemental declaration submitted with the previous §1.47(a) petition did not contain un-initialed/undated alterations. The alterations referred to in the June 9, 2003 decision were, instead, in the original declaration filed on September 5, 2002 in response to the July 26, 2002 Notice of Missing Parts.

To prevent abandonment of this application,[4] one of the following must be submitted within **TWO MONTHS** of the mailing date of this decision:[5]

(1) an oath/declaration properly signed by all inventors, including Drown;[6]

OR

(2) a renewed §1.47(a) petition (no fee) that includes proper statement(s) of facts relied upon to establish that a **diligent effort** had been made, in vain, to locate Drown.[7]

---

[3] Copy of printout attached.

[4] See 37 CFR 1.53(f) (If an application which has been accorded a filing date . . . does not include an oath or declaration . . . pursuant to §1.63 . . . , applicant will be notified and given a period of time within which to . . . file an oath or declaration . . . to avoid abandonment).

[5] Unless proper extension(s) of time under 37 CFR 1.136(a) is (are) obtained.

[6] **A second supplemental declaration listing the instant application and/or the claimed invention, the inventive entity, and signed only by Drown is sufficient.**

[7] The steps taken to locate the whereabouts of Drown should be included in the statement of facts, signed by the person with firsthand knowledge of the facts recited therein. MPEP section 409.03(d) INVENTOR CANNOT BE REACHED (Rev. 1, Feb. 2003).

The renewed §1.47(a) petition should be addressed as follows:

by mail/by hand:	Commissioner for Patents, USPTO Office of Petitions Crystal Plaza Four, Suite CP4-3C23 2201 South Clark Place Arlington, VA 22202
by fax:	(703) 308-6916 Attn: Office of Petitions

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

Attachment: lexis.com search printout

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. 13

BEUSSE BROWNLEE BOWDOIN
& WOLTER, P.A.
390 NORTH ORANGE AVE
SUITE 2500
ORLANDO, FL 32801

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OFFICE OF PETITIONS

In re Application of
Drown et al.
Application No. 10/180,221
Filed: June 25, 2002
Attorney Docket No. Cheung 3-2-2-35-7/031

DECISION ACCORDING
STATUS UNDER
37 CFR 1.47(a)

This decision concerns the second renewed petition under 37 CFR 1.47(a), filed on November 7, 2003 (Certificate of Mailing date November 4, 2003) along with a request for a 1-month extension of time and the extension-of-time fee.

The renewed petition is **GRANTED.**

The previous petition under 37 CFR 1.47(a), filed on July 29, 2003, was dismissed on August 4, 2003 for lacking sufficient showing that a diligent effort had been made to locate/reach the non-signing inventor Jennifer Lynne Drown.

Upon review of the instant renewed petition and the accompaniments, the Office concludes that a reasonably diligent effort had been made, in vain, to reach Jennifer Lynne Drown. The renewed petition is thus granted.

As provided in 37 CFR 1.47(c), the Office will forward notice of the filing of this application to the inventor Jennifer Lynne Drown at her last known address indicated in the renewed petition: 3115 Saddle Ridge Court, Richmond, TX 77469. Notice of the filing of this application will also be published in the *Official Gazette*.

No petition fee is required for a renewed §1.47 petition. The $130 petition fee submitted with the instant renewed petition has been refunded.

The file is being forwarded to Technology Center 2800 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Jennifer Lynne Drown
3115 Saddle Ridge Court
Richmond, TX 77469

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NOV 21 2003

OFFICE OF PETITIONS

In re Application of
Drown et al.
Application No. 10/180,221
Filed: June 25, 2002
For: APPARATUS FOR SCANNING A CRYSTALLINE SAMPLE AND ASSOCIATED METHODS

LETTER

Dear Ms. Drown,

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

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

Requests for information regarding this application should be directed to the File Information Unit at (703) 308-2733. For information on how to order a copy of the application or a specific paper in the application, contact the Certification Division at (703) 308-9726 or 1-(800) 972-6382 (outside the Washington DC area). Telephone inquiries regarding this letter should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions
Office of the Commissioner for Patents

cc: Robert L. Wolter, Esq.
Beusse Brownlee Bowdoin & Wolter, P.A.
390 North Orange Ave., Suite 2500
Orlando, FL 32801

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

Sally J. Brown
Autoliv ASP, Inc.
3350 Airport Road
Ogden, UT 84405-1563

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DEC 13 2002

OFFICE OF PETITIONS

In re Application of :
Henderson et al. :
Application No. 10/180,255 : ON PETITION
Deposited: June 25, 2002 :
Attorney Docket No.: 14188 :

This is a decision on the petition to accord filing date filed September 3, 2002, requesting that the above-identified application be accorded a filing date of June 25, 2002.

Application papers in the above-identified application were filed on June 25, 2002. However, on July 31, 2002, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application", notifying applicants that the application papers had not been accorded a filing date because the application was deposited without drawings.[1]

In response, 8 sheets of drawings, including figures 1-7H and the present petition were filed on September 3, 2002. The petition contends that the application as filed included figures 1-7H and were described in the original filed specification. In support, the petition is accompanied by a copy of applicant's postcard receipt which acknowledges receipt in the office of "drawings formal Total pgs. 8" on June 25, 2002.

Applicant's postcard receipt is prima facie[2] evidence that drawings were received on June 25, 2002, but no drawings are present in the file. Hence, it is clear that the papers for this application were mishandled by the Office. Therefore, it is concluded that 8 sheets of drawings, including figures 1-7H, were received on June 25, 2002, as shown in counsel's file, and later misplaced in the Office.

The petition is Granted.

---

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

[2] A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the office of all items listed thereon. See MPEP 503.

Since the original drawings cannot be located in the Office, the copy of the drawings supplied on September 3, 2002, will be used for processing and examination purposes.

No petition fee is due.

The application will then be returned to the Office of Initial Patent Examination for further processing with a **filing date of June 25, 2002**, using the 8 sheets of drawings supplied on September 3, 2002.

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

For

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 04/20/2010

Applicant	: Robert J. Lutz	: DECISION ON REQUEST FOR
Patent Number	: 7587305	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/180,265	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/26/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **866** 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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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of :
Kuo-Rong Chen, et al. :
Application No. 10/180,293 :
Filed: June 27, 2002 :
Attorney Docket No. CHEN3393/EM :

ON PETITION

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**.

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
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SUGHRUE MION PLLC
2100 PENNSYLVANIA AVE NW
SUITE 800
WASHINGTON DC 20037

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OCT 3 1 2005

OFFICE OF PETITIONS

In re Patent No. 6,876,376	:	DECISION ON
Yoshiharu Ysasaki	:	PATENT TERM ADJUSTMENT
Issue Date: April 5, 2005	:	AND NOTICE OF INTENT
Application No. 10/180,306	:	TO ISSUE
Filed: June 27, 2002	:	CERTIFICATE OF
Attorney Docket No. Q70808	:	CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)", filed June 3, 2005. Patentee requests that the patent term adjustment indicated on the patent be corrected from one hundred thirty-four (134) days to two hundred ten (210) days.

The petition is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **two hundred ten (210)** days.

On April 5, 2005, the above-identified application matured into U.S. Patent No. 6,876,376. The instant request for reconsideration filed June 3, 2005 was timely filed within two months of the date the patent issued. See §1.705(d). The Patent issued with a Patent Term Adjustment of one hundred thirty-four (134) days.

Patentee fails to state whether the patent is subject to a terminal disclaimer.

Patentee asserts that he should not have been assessed applicant delay of seventy-six (76) days for the submission of a "STATEMENT OF SUBSTANCE OF INTERVIEW".

The "STATEMENT OF SUBSTANCE OF INTERVIEW" is not identified as one of the papers the filing of which the Director has specifically deemed not to be a failure to engage in reasonable efforts under 37 C.F.R. §1.704(c)(10).[1] Nevertheless, under the circumstances of this case, it is concluded that the filing of applicant's "STATEMENT OF SUBSTANCE OF INTERVIEW" is not a failure to engage under 37 C.F.R. §1.704(c)(10). Accordingly, the assessment of seventy-six (76) days of applicant delay with respect to this filing is not warranted.

In view thereof, the correct determination of PTA at the time of issuance is two hundred ten (210) days (210 days of PTO delay and 0 days of applicant delay).

Receipt of the $200.00 fee set forth in 37 C.F.R. §1.18(e) is acknowledged.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 C.F.R. § 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **two hundred ten (210)** days subject to any disclaimers.

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

Kery Fries
for

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

Enc: draft certificate of correction

---

[1] See Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed, 1247 Off. Gaz. 111 (June 26, 2001).

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James E. Curry
3D Systems, Inc.
26081 Avenue Hall
Valencia, CA 91355

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JUL 2 0 2004
OFFICE OF PETITIONS

In re Application of :
Jon Jody Fong, et al. :
Application No. 10/180,380 :
Filed: June 24, 2002 :
Attorney Docket No. USA.319 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 23, 2004, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

The application file is being forwarded to Technology Center 1700.

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

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Lester J. Vincent
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

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AUG 2 2 2006

OFFICE OF PETITIONS

In re Application of Samra :
Application No. 10/180,391 : Decision on Petition
Filing Date: June 25, 2002 :
Attorney Docket No. 42P13932 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 22, 2005, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 8, 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 became abandoned on June 9, 2005. A Notice of Abandonment was mailed on September 15, 2005.

The instant petition requests revival of the application.

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

Technology Center Art Unit 2183 will be informed of the instant decision and the application will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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NXP INTELLECTUAL PROPERTY DEPARTMENT
M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE CA 95131

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JUN 24 2008

OFFICE OF PETITIONS

In re Application of	:	
Olivier Paviot	:	DECISION ON PETITION
Application No. 10/180,404	:	
Filed: June 26, 2002	:	
Attorney Docket No. FR 010084	:	

This is a decision on the petition filed April 21, 2008, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file an Appeal Brief. Applicants filed a Notice of Appeal on June 13, 2007. No Appeal Brief having been filed thereafter, the application became abandoned on August 14, 2007. A Notice of Abandonment was mailed on February 25, 2008.

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

The matter is being forwarded to Group Art Unit 2611 for consideration of the Appeal Brief filed April 21, 2008.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HESLIN ROTHENBERG FARLEY & MESITI PC
5 COLUMBIA CIRCLE
ALBANY NY 12203

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SEP 2 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Martin PFEIFER	:	
Application No. 10/180,445	:	DECISION ON PETITION
Filed: June 26, 2002	:	
Attorney Docket No. 1974.009	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 12, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 21, 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 (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). A two (2) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is February 22, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $295 extension of time fee submitted with the petition on May 12, 2008 was

subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's Deposit Account 08-1935.

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

This application is being referred to Technology Center AU 1792 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Thurman Page
Petitions Examiner
Office of Petitions

COMBINED NOTICE OF APPEAL FROM THE PRIMARY EXAMINER TO THE BOARD OF PATENT APPEALS AND INTERFERENCES & PETITION FOR EXTENSION OF TIME UNDER 37 C.F.R. 1.136(a) (Small Entity)	Docket No. 1974.009

In Re Application Of: **Martin Pfiefer**

Application No.	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
10/180,445	06/26/2002	Markoff, Alexander	23405	1746	8973

Invention: **DEVICE AND METHOD FOR TESTING THE EFFICIENCY OF AN ULTRASONIC CLEANING DEVICE**

COMMISSIONER FOR PATENTS:

This is a combined Notice of Appeal from the Primary Examiner to the Board of Patent Appeals and Interferences and petition under the provisions of 37 CFR 1.136(a) to extend the period for filing a response to the Office Action of 09/21/2007 (*Date*) in the above-identified application.

Applicant(s) hereby appeal(s) to the Board of Patent Appeals and Interferences from the decision of the Primary Examiner dated 05/02/2008 finally rejecting Claim(s) **1, 4, 6, 8-11, 14, 16-20 & 22-27**

Applicant(s) hereby request(s) an extension of time of (check desired time period):

☐ One month ☐ Two months ☒ Three months ☐ Four months ☐ Five months

from: 12/21/2007 (*Date*) until: 03/21/2008 (*Date*)

The fee for the Notice of Appeal and Extension of Time has been calculated as shown below:

Fee for Notice of Appeal: $255.00

Fee for Extension of Time: $295.00 ($525 less $230 previously paid)

TOTAL FEE FOR NOTICE OF APPEAL AND EXTENSION OF TIME: $550.00

The fee for the Notice of Appeal and extension of time is to be paid as follows:

☐ A check in the amount of for the Notice of Appeal and extension of time is enclosed.

☒ Please charge Deposit Account No. **081935 (HRFM)** in the amount of **$550.00**

☒ The Director is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. **081935 (HRFM)**

- ☒ Any additional filing fees required under 37 C.F.R. 1.16.
- ☒ Any patent application processing fees under 37 CFR 1.17.

Adjustment date: 09/22/2008 CKHLOK
05/13/2008 INTEFSW 00001718 081935 10180445
02 FC:2253 295.00 OP

☒ If an additional extension of time is required, please consider this a petition therefor and charge any additional fees which may be required to Deposit Account No. **081935 (HRFM)**

☐ Payment by credit card. Form PTO-2038 is attached.

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.

COMBINED NOTICE OF APPEAL FROM THE PRIMARY EXAMINER TO THE BOARD OF PATENT APPEALS AND INTERFERENCES & PETITION FOR EXTENSION OF TIME UNDER 37 C.F.R. 1.136(a) (Small Entity)	Docket No. 1974.009

In Re Application Of:
Martin Pfiefer

Application No.	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
10/180,445	06/26/2002	Markoff, Alexander	23405	1746	8973

Invention: **DEVICE AND METHOD FOR TESTING THE EFFICIENCY OF AN ULTRASONIC CLEANING DEVICE**

TO THE COMMISSIONER FOR PATENTS:

This combined Notice of Appeal from the Primary Examiner to the Board of Patent Appeals and Interferences and petition for extension of time under 37 CFR 1.136(a) is respectfully submitted by the undersigned:

Wayne F. Re

Signature

Dated: May 12, 2008

Wayne F. Reinke, Esq.
Attorney for Application
Registration No.: 36,650

HESLIN ROTHENBERG FARLEY & MESITI, P.C.
5 Columbia Circle
Albany, New York 12203
Tel.: (518) 452-5600 / Fax: (518) 452-5579

Certificate of Electronic Transmission*

I hereby certify that this document and authorization to charge deposit account is being electronically transmitted to the United States Patent and Trademark Office on:

May 12, 2008
(Date)

Staci D. Johnson

Signature

Staci D. Johnson

Typed or Printed Name of Person Signing Certificate

***This certificate may only be used if paying by deposit account.**

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 "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on

(Date)

Signature of Person Mailing Correspondence

Typed or Printed Name of Person Mailing Correspondence

cc:

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 09/16/08

2 Serial/Patent # 10/180,445

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
X	Extension of Time	PET.OP	05/12/08	$ 295.00
	Notice of Appeal/Appeal			$
	Petition			$
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 295.00

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 0 8 -- 1 9 3 5

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

Time expired for extension of time , no fee due

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Diane Goodwyn TITLE: Paralegal

SIGNATURE: /dgoodwyn/ PHONE: 571-272-6735

OFFICE: Petitions

****

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APPROVED: CWLok DATE: 9/22/08

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:

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Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, LLP
1300 I STREET, NW
WASHINGTON DC 20005

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DEC 02 2003
OFFICE OF PETITIONS

Applicant: Montagnier et al.
Appl. No.: 10/180,460
Filing Date: June 27, 2002
Title: HIV-2 ANTIGEN COMPOSITIONS
Attorney Docket No.: 02356.0014-13000
Pub. No.: US 2003/0170658 A1
Pub. Date: September 11, 2003

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

The request is DISMISSED.

Applicant request that the application be republished because the patent application publication contains several typographical errors in the correspondence address on the front page of the publication and that the claims section of the publication is missing the header "Claims".

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 error in the correspondence address wherein:
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P.
1300 I STREET, NW
WASHINGTON DC 20005

is listed as
FINNEGAN, HENDERSON, FARABOW, GARRETT
& DUNNER LLP
1300 I STREET, NW
WASHINGTON DC 20006

on the front page of the publication is an Office mistake, but it is not a material error as required by 37 CFR 1.221(b). The mistakes in the correspondence address are not material mistakes because they do not affect the public's ability to appreciate the technical disclosure of the patent

[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).

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.

With respect to the missing phrase "Claims" at the start of the claims section, the mistake is not material mistakes because it 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.

Applicant's request on November 4, 2003, may constitute a "failure to engage in reasonable efforts" to conclude processing or examination of the application. See 1.704(c). This determination will be on or after a mailing 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 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 is being forwarded to Technology Center 1648 to await further examination 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 Polutta
Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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NOV 26 2003

Office of the Director
Group 3600

BRIAN ROFFE, ESQ
11 SUNRISE PLAZA, SUITE 303
VALLEY STREAM, NY 11580-6170

Paper No. 4

In re application of
David S. Breed
Application No. 10/180,466
Filed: June 26, 2002
For: METHOD AND APPARATUS FOR DEPLOYING AIRBAGS

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on October 20, 2003 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a copy of a passport from the applicant showing that he is at least 65 years of age.

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

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

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

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

SNM/cps 11/17/03

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)
6918459	2005-07-19	10180466	2002-06-26	ATI-326

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	/Brian Roffe/	Date (YYYY-MM-DD)	2009-09-14
Name	Brian Roffe	Registration Number	35336

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. 6918459
Issue Date: July 19,2005
Application No. 10180466
Filed: June 26,2002
Attorney Docket No. ATI-326

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

This is a decision on the electronic petition, filed September 14,2009 ,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 14,2009 . 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.

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVE., N.W.
WASHINGTON DC 20005

MAILED

JUN 07 2010

OFFICE OF PETITIONS

In re Application of	:	
Krzyzanowski et al.	:	
Application No. 10/180,500	:	ON APPLICATION FOR
Filed: June 27, 2002	:	PATENT TERM ADJUSTMENT
Atty Docket No.	:	
2100.0030000	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b)," filed on March 26, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is 1067 (581 + 486) days, not 581 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

The instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the

initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, 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). No additional fees are required.

Applicants state that the patent is not subject to a terminal disclaimer.

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).

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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.

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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WASHINGTON, DC 20005

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OFFICE OF PETITIONS

In re Application of
Paul KRZYZANOWSKI, *et al.*
Application No. 10/180,500
Filed: June 27, 2002
Attorney Docket No. **2100.0030000**

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

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 14, 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 26, 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]

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.134, the signature of Mr. Jason D. Eisenberg appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If Ms. Eisenberg desires to receive future correspondence regarding this file, the appropriate power of attorney documents must be submitted.

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

This application is being referred to Technology Center AU 2457 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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

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BRAKE HUGHES BELLERMANN LLP
c/o CPA Global
P.O. Box 52050
Minneapolis, MN 55402

Mail Date: 04/20/2010

Applicant	: David Wong	: DECISION ON REQUEST FOR
Patent Number	: 7660292	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/180,510	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/27/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2155** 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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FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

In re Application of	:
Vaughn, et al.	: DECISION ON APPLICATION FOR
Application No. 10/180,534	: PATENT TERM ADJUSTMENT
Filed: June 27, 2002	:
Atty. Dkt. No.: 040301-0622	:

This is a decision on the "APPLICATION FOR PTA UNDER 37 C.F.R. § 1.705(b)," filed May 20, 2005.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **GRANTED TO THE EXTENT INDICATED HEREIN**.

The Office will adjust the PAIR screen to reflect that the Patent Term Adjustment (PTA) determination at the time of mailing of the Notice of Allowance and Issue Fee Due reflects an applicant delay of 333 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

A Notice of Allowance in the above-identified application was mailed February 24, 2005. The Determination of Patent Term Adjustment indicated a PTA of 241 days as of the time of Allowance. Applicants herein argue that the reduction of 92 days is in error as the terminal disclaimer submitted January 19, 2005 was expressly requested by the examiner and therefore did not constitute a failure to engage in reasonable efforts to conclude prosecution within the meaning of 37 CFR 1.704(c)(8).

A review of the application history reveals that an adjustment of 328 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(1) for failure to issue at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed.

The Office errantly reduced the adjustment of ~~328~~ 333 days 92 days in connection with submission of a terminal disclaimer on January 19, 2005. Review of the official application file, in particular the Examiner Interview Summary dated February 24,

2005, reveals that the terminal disclaimer was in fact specifically requested by the examiner and thus not constitute a failure to engage in reasonable efforts to conclude prosecution as argued by applicants.

There were no further Office delays under 37 CFR 1.702 at the time of allowance. It is noted that the initial PTA calculation indicated an adjustment of five days for failure to respond within four months to the response submitted by applicants on October 19, 2004. This adjustment is in error by virtue of the fact that a supplemental response (terminal disclaimer) was filed on January 19, 2005. A response to the terminal disclaimer was mailed within four months of its submission on February 3, 2005.

Accordingly, as of the time of allowance, the application is entitled to an adjustment of 333 days.

Receipt is hereby acknowledged of the required application fee of $200.00.

The application file is being forwarded to the Publications Division for issuance of a patent.

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

Kery A. Fries

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

Enclosure: Copy of Adjustment PAIR Calculation

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TECHNOLOGY CENTER 2800
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MORGAN & FINNEGAN, L.L.P.
345 Park Avenue
New York NY 10154-0053

In re Application of:
Moshe Gefen
Serial No.: 10/180,574
Filed: June 26, 2002
For: SEMICONDUCTOR PROGRAMMING AND TESTING METHOD AND APPARATUS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENT OF RECORD

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed March 19, 2004, via facsimile transmission, which is a resubmission of an earlier request filed February 20, 2004.

The request is APPROVED.

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

Andrew M. Riddles signed the request on behalf of all attorneys of record who are associated with customer No. 27123.

Applicant is reminded that there is no attorney of record at this time. The correspondence address of record has been changed and the new correspondence address is the address indicated below.

The Applicant is reminded that response to the non-final Office action of November 20, 2003 is required. The maximum statutory period for reply expires May 20, 2004 (with a proper petition for a three-month extension of time under 37 C.F.R. § 1.136(a)).

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

Hien H. Phan, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components
(571) 272-1606

CC: Eran Tagor
ETALON Systems, Inc.
45-1910 River Drive South
Jersey City, New Jersey 07310

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

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In re Application of

Zenios, et al. :

Application No. 10/180,576

: DECISION ON PETITION

Filed: June 16, 2002

:

Attorney Docket No. TC00146

This is a decision on the petition under 37 CFR 1.137(b), filed July 19, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment mailed March 3, 2005, which set a period for reply of one (1) month 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 April 4, 2005. A Notice of Abandonment was mailed on June 6, 2006.

The amendment filed July 19, 2006, is noted.

The application is being forwarded to Technology Center 2600, GAU 2617 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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Blakely, Sokoloff, Taylor & Zafman LLP
12400 Wilshire Blvd.
7th Floor
Los Angeles, CA 90025-1026

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OFFICE OF PETITIONS

In re Application of :

Tim Fallen-Bailey et al. :
Application No. 10/180,586 :
Filed: June 25, 2002 :
Attorney Docket No. 5306.P090 :

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 25, 2006.

The request is **NOT APPROVED**.

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

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: **Sam Campbell**
Campbell, Stephenson Asocolese, LLP
4807 Spicewood Spring Road
Bldg. 4, Suite 201
Austin, TX 78759

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

Mail Date: 04/26/2010

Applicant	: Tim Fallen-Bailey	: DECISION ON REQUEST FOR
Patent Number	: 7596777	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/180,586	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/25/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **725** 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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ALEXANDRIA, VA 22313-1450
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Paper No.

MORGAN, LEWIS & BOCKIUS, LLP.
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO, CA 94306

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JAN 0 7 2005

OFFICE OF PETITIONS

In re Application of :
Antonio M. Monteiro, et al. :
Application No. 10/180,590 : ON PETITION
Filed: June 26, 2002 :
Attorney Docket No. 8850-010 :

This is a decision on the petition, filed December 28, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 3, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries 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 2132 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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PALO ALTO, CA 94306

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OFFICE OF PETITIONS

In re Application of	:
Antonio M. Monteiro et al	:
Application No. 10/180,590	: DECISION GRANTING PETITION
Filed: June 26, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 061163-0010-US	:

This is a decision on the petition, filed January 18, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 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 the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2132 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement and the amendment received February 20, 2007.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Apr10\180590.wpd

---

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

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IL01/3RD
SCHAUMBURG IL 60196

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OFFICE OF PETITIONS

In re Application of

James A. Van Bosch :

Application No. 10/180,620

: DECISION ON PETITION

Filed: June 26, 2002

:

Attorney Docket No. TC00166

This is a decision on the petition under 37 CFR 1.137(b), filed July 19, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to file a proper reply in a timely manner to the final Office action mailed November 1, 2005, which set a shortened statutory period for reply of three (3) months from its mailing date. A response was filed on April 3, 2006, with a request for an extension of time within the second month. An Advisory Action mailed April 28, 2006 advised petitioner that the response of April 3, 2006, did not place the application in condition for allowance. The application became abandoned on April 2, 2006.

The Request for Continued Examination filed July 19, 2006, is noted and made of record.

The application is being forwarded to Technology Center 2600, GAU 2617 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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WILHELM LAW SERVICE, SC
100 W LAWRENCE ST
THIRD FLOOR
APPLETON, WI 54911

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OFFICE OF PETITIONS

In re Application of
Kurt KLEMM
Application No. 10/180,621
Filed: June 26, 2002
Docket No. 29730A

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 31, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, September 5, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 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 an amendment, (2) the petition fee of $770; and (3) an adequate statement of unintentional delay.

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

This application is being referred to Technology Center AU 3772 for appropriate action by the Examiner in the normal course of business on the reply received March 31, 2008.

April M. Wise
Petitions Examiner
Office of Petitions

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/180,621	06/26/2002	Kurt Klemm	29730A

CONFIRMATION NO. 1598

POA ACCEPTANCE LETTER

23482
WILHELM LAW SERVICE, S.C.
100 W LAWRENCE ST
THIRD FLOOR
APPLETON, WI 54911

OC000000030133537

Date Mailed: 05/23/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/22/2003.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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HOVEY WILLIAMS LLP
2405 GRAND BLVD., SUITE 400
KANSAS CITY MO 64108

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Robert C. Cox et al	:
Application No. 10/180,624	:
Filed: June 25, 2002	:
Attorney Docket No. 32343	:

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 August 30, 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 1752 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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OFFICE OF PETITIONS

Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
1300 I Street, N.W.
Washington, DC 20005-3315

In re Application of
Boyle, et al.
Application No. 10/180,648
Filed: June 25, 2002
Atty Docket No. 06843.0049-00000

DECISION GRANTING PETITION

This is a decision on the "Petition under 37 CFR 1.10(c)," filed August 30, 2002, requesting that the above-identified nonprovisional application be accorded a filing date of June 25, 2002, rather than the presently accorded filing date of June 26, 2002.

Applicants maintain that the above-identified application was deposited in the "Express Mail Post Office to Addressee" service of the USPS, pursuant to § 1.10 on June 25, 2002, and thus, is entitled to a filing date of June 25, 2002. In support thereof, applicants submit a true copy of the "Express Mail Post Office to Addressee" mailing label No. EV063563396US; and a true copy of the Patent Application Transmittal Letter, bearing "Express Mail" mailing label number EV063563396US thereon.

Having reviewed the evidence, it is concluded that petitioner has shown a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by other official USPS notation. The petition was filed promptly within the meaning of § 1.10(c)(1). The transmittal submitted is a true copy of the transmittal present in the application file, and both bear the "Express Mail" mailing label number. Thus, petitioner has shown that this number was placed on the correspondence prior to the original mailing date. The "date-in" on the "Express Mail" mailing label submitted is June 25, 2002. Further, the label bears an official USPS date stamp of June 25, 2002.

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

No petition fee is necessary and none has been charged.

The application is being returned to the Office of Initial Patent Examination for **correction of the filing date to June 25, 2002** and **issuance of a corrected filing receipt**, as well as, for completion of pre-examination processing.

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

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OFFICE OF PETITIONS

Finnegan Henderson Farabow Garrett Dunner
901 New York Avenue NW
Washington DC 20001-4413

In re Application of
Boyle et al
Application No. 10/180,648
Filed: June 25, 2002
Attorney Docket No.06483.0049-00000

: DECISION GRANTING PETITION

This decision is in response to applicants' "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 1.705(b)" TIMELY[1] filed on December 7 , 2007 requesting that the Office adjust the Patent Term Adjustment determination from 139 days to a determination of 499 days.

Applicants' request for PTA is **GRANTED..** The Office will *sua sponte* adjust the PTA determination at the time of the mailing of the notice of allowance from 139 days to 499 days.

Applicants argue that the reduction of 359 days under 37 CFR 1.704(b) for the late submission of the reply to the notice to file missing parts is in error because the actual response date entered, October 24, 2003 is incorrect. Applicants assert that the proper date of reply to the notice to file missing parts is October 25, 2002. Accordingly, applicants assert that the did not delay in the submission of the reply to the July 30, 2002 notice. In addition, the applicants assert that the Office erred in the 63 day reduction for the submission of the RCE on September 19, 2006. Applicants assert that the submission was filed on September 18, 2006 and the reduction should have been 62 days not 63. Furthermore, applicants concede that since the RCE date was September 18, 2006, the reduction for the supplemental IDS on September 28, 2006 should have been 10 days rather than the 9 assessed days.

Applicants' arguments have been considered and are persuasive. The Office agrees totally with applicants' assertions. The dates asserted by applicant are correct. The Office erred in entering the improper dates into the PALM records. Accordingly, the Office delayed under 37 CFR 1.702(a)(1) by a period of 613 days. Applicants delayed by a period of 114 days. Overall, the proper amount of PTA at the time of the mailing of the notice of allowance is 499 days.

After the mailing of this decision, the application will be forwarded to the Office of Patent Publications for a prompt issuance of the patent

Any additional PTA pursuant to 37 CFR 1.702(b) or 1.702(a)(4) will be added to the PTA at the time of the issuance of the patent and will be reflected in the issue notification letter that is mailed to applicants approximately three weeks prior to issuance of the patent.

---

[1] Issue fee paid on December 7, 2007.

10/180,648

Applicants have submitted the $200.00 fee for this application. No additional fees are required.

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

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

CC: Copy of Adjusted Pair Calculation

Day : Friday
Date: 3/14/2008

PALM INTRANET

Time: 18:04:30

PTA Calculations for Application: 10/180648

Application Filing Date:	06/25/2002	PTO Delay (PTO):	613
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	474
Post-Issue Petitions:	0	Total PTA (days):	499
PTO Delay Adjustment:	360		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
96	03/14/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	360		
88	10/18/2007	MAIL NOTICE OF ALLOWANCE			
87	10/18/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
86	10/15/2007	ISSUE REVISION COMPLETED			
84	10/15/2007	DOCUMENT VERIFICATION			
83	10/15/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
82	10/15/2007	CASE DOCKETED TO EXAMINER IN GAU			
81	10/15/2007	NOTICE OF ALLOWABILITY			
80	10/05/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
79	09/27/2007	DATE FORWARDED TO EXAMINER			
78	09/20/2007	AMENDMENT AFTER FINAL REJECTION		1	76
77	06/19/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
76	06/19/2007	MAIL FINAL REJECTION (PTOL - 326)			
75	06/08/2007	FINAL REJECTION			
74	05/29/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
73	04/20/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
72	04/20/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
71	04/20/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		38	69
70	03/28/2007	DATE FORWARDED TO EXAMINER			
69	03/13/2007	RESPONSE AFTER NON-FINAL ACTION			

68	12/13/2006	MAIL NON-FINAL REJECTION			
67	12/05/2006	NON-FINAL REJECTION			
66	09/28/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
65	09/28/2006	REFERENCE CAPTURE ON IDS			
64.7	09/28/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		9	60
64	09/28/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
63	09/26/2006	DATE FORWARDED TO EXAMINER			
62	09/19/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
61	09/26/2006	DATE FORWARDED TO EXAMINER			
60	09/19/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)		63	52
59	09/26/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
58	09/19/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
57	09/19/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
56	08/07/2006	MAIL ADVISORY ACTION (PTOL - 303)			
55	08/03/2006	ADVISORY ACTION (PTOL-303)			
54	07/25/2006	DATE FORWARDED TO EXAMINER			
53	07/18/2006	AMENDMENT AFTER FINAL REJECTION			
52	04/18/2006	MAIL FINAL REJECTION (PTOL - 326)			
51	04/14/2006	FINAL REJECTION			
50	01/25/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
49.7	01/25/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	47
49	01/25/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
48	02/09/2006	DATE FORWARDED TO EXAMINER			
47	01/25/2006	RESPONSE AFTER NON-FINAL ACTION		4	44
46	01/25/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
45	10/14/2005	MISCELLANEOUS INCOMING LETTER			
44	10/21/2005	MAIL NON-FINAL REJECTION			
43	10/17/2005	NON-FINAL REJECTION			
42	09/27/2005	MAIL EXAMINER INTERVIEW SUMMARY (PTOL			

		- 413)			
41	09/16/2005	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
40	07/29/2005	REFERENCE CAPTURE ON IDS			
39.7	07/29/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	37
39	07/29/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
38	08/11/2005	DATE FORWARDED TO EXAMINER			
37	07/29/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
36	07/29/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
35	04/29/2005	MAIL RESTRICTION REQUIREMENT	613		-1
34	04/28/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
33	04/14/2005	CASE DOCKETED TO EXAMINER IN GAU			
32	01/13/2005	CASE DOCKETED TO EXAMINER IN GAU			
31	08/17/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
30	08/05/2004	PRELIMINARY AMENDMENT			
29	03/14/2003	REFERENCE CAPTURE ON IDS			
28.7	03/14/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
28	03/14/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
27	01/27/2003	REFERENCE CAPTURE ON IDS			
26.7	01/27/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
26	01/27/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
25	10/25/2002	NEW OR ADDITIONAL DRAWING FILED			
24	10/25/2002	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
23	10/25/2002	PRELIMINARY AMENDMENT			
22	08/05/2004	WORKFLOW INCOMING AMENDMENT IFW			
21	02/11/2004	CASE DOCKETED TO EXAMINER IN GAU			
20	11/07/2003	APPLICATION RETURN FROM OIPE			
19	11/10/2003	APPLICATION IS NOW COMPLETE			
18	06/25/2002	DRAWING PRELIMINARY AMENDMENT			
17	11/10/2003	PRE-EXAM OFFICE ACTION WITHDRAWN			
16	11/07/2003	APPLICATION RETURN TO OIPE			

15	11/07/2003	APPLICATION DISPATCHED FROM OIPE			
14	11/10/2003	APPLICATION IS NOW COMPLETE			
13	10/24/2003	ADDITIONAL APPLICATION FILING FEES		359	5
12	10/24/2003	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
11	10/24/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
10	10/24/2003	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
9	09/06/2003	CORRESPONDENCE ADDRESS CHANGE			
8	11/22/2002	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
7	11/04/2002	MAIL-RECORD PETITION DECISION OF GRANTED RELATED TO FILING DATE			
6	08/30/2002	PETITION ENTERED			
5	07/30/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	07/11/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	07/11/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	06/26/2002	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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

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AUG 11 2009

OFFICE OF PETITIONS

In re Patent No. 7,364,736	:	ON PETITION UNDER 37 CFR
Boyle et al.	:	1.183 AND ON REQUEST FOR
Issue Date: April 29, 2008	:	RECONSIDERATION OF PATENT
Application No. 10/180,648	:	TERM ADJUSTMENT
Filed: June 25, 2002	:	
Docket No. 6843.0049-00000	:	

This is a decision on the 1) Petition under 37 CFR 1.183, requesting that the Office suspend the rules and consider on the merits a Request for Reconsideration of Patent Term Adjustment under 37 CFR 1.705(d) filed more than two months from the date the above-referenced patent issued; and on the 2) "DETERMINATION OF PATENT TERM ADJUSTMENT - POST GRANT" under 37 CFR 1.705(d), both of which were filed on October 24, 2008.

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

The request for reconsideration of patent term adjustment under 37 CFR 1.705(d) is **dismissed as untimely filed**.

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

BACKGROUND

On April 29, 2008, the above-identified application matured into U.S. Patent No. 7,364,736, with a revised patent term adjustment of 521 days. No request for reconsideration of the patent term adjustment indicated in the patent was filed within two months of the date the patent issued. Patentee now petitions under 37 CFR 1.183 to (i) suspend or waive the requirement of 37 CFR 1.705(d) that a Request for Reconsideration of Patent Term Adjustment be filed within two months of the date the patent issued; and (ii) consider the enclosed "DETERMINATION OF PATENT TERM ADJUSTMENT - POST GRANT". Patentee references the recent decision in Wyeth v. Dudas, 580 F.Supp.2d 138, 88 U.S.P.Q.2d 1538 (D.D.C. 2008).

ON PETITION UNDER37 CFR 1.183
TO WAIVE THE TWO-MONTH REQUIREMENT OF 37 CFR 1.705(d)

The above-referenced patent issued on April 29, 2008. A request for reconsideration of the patent term adjustment indicated in the patent was not filed until October 24, 2008. Petitioner requests that the Office suspend the rules and consider on the merits the Request for Reconsideration of Patent Term Adjustment under 37 CFR 1.705(d) even though it was untimely filed more than two months from the date the patent issued.

The relevant regulation, 37 CFR 1.705(d), provides that:

> If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, *any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued* and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues. (*emphasis* added).

By the express provisions of 37 CFR 1.705(d), a request for reconsideration of patent term adjustment must be filed within two months of the date the patent issued. It is undisputed that no such request for reconsideration was filed by June 29, 2008, the date two months from the date this patent issued, April 29, 2008. Rather, on October 24, 2008, after the issuance of a decision in Wyeth v. Dudas on September 30, 2008, petitioner filed the instant request for waiver of the two-month requirement.

37 CFR 1.183 provides that:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

35 U.S.C. 154 requires the Office to provide the applicant one opportunity to request reconsideration of any patent term adjustment determination made by the Director and authorizes the Director to establish the procedures for requesting such reconsideration. Those procedures[1] include pursuant to 37 CFR

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[1] 35 U.S.C. § 154(b)(3) provides that the USPTO shall: (1) prescribe regulations establishing procedures for the application for and determination of patent term adjustments under 35 U.S.C. § 154(b); (2) make a determination of any patent term adjustment under 35 U.S.C. § 154(b) and transmit a notice of that determination with the notice of allowance under 35 U.S.C. § 151; and (3) provide the applicant one opportunity to request reconsideration of any patent term adjustment determination. Pursuant to the mandate and authority in 35 U.S.C. § 154(b)(3), the USPTO promulgated 37 CFR 1.705, which provides that: (1) the notice of allowance will include notification of any patent term adjustment under 35 U.S.C. § 154(b) (37 CFR 1.705(a)); (2) any request for reconsideration of the patent term adjustment indicated in the notice of allowance (except as provided in 37 CFR 1.705(d)) must be by way of an application for patent term adjustment filed no later than the payment of the issue fee and accompanied by (inter alia) the fee set forth in 37 CFR 1.18(e)(37 CFR 1.705(b)); and (3) if the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued.

1.705(d) setting a two-month period for filing a request for reconsideration of the revised patent term adjustment indicated in the patent.

Having considered petitioner's arguments, it is concluded that waiver of the two-month requirement is not warranted. The primary basis for requesting waiver set forth by petitioner is the extraordinary situation presented by the recent decision in Wyeth v. Dudas, 580 F.Supp.2d 138, 88 U.S.P.Q.2d 1538 (D.D.C. 2008). Specifically, petitioner states that in Wyeth, the U.S. District Court for the District of Columbia held that contrary to USPTO practice, a patentee is entitled to Patent Term Adjustment credit for examination delay under 37 CFR 1.702(b) in addition to any examination delay under 37 CFR 1.702(a), to the extent that the two periods of delay "do not occur on the same calendar day or days."

Petitioner has not explained why petitioner could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued. Apparently, petitioner's argument is that the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered more than two months after the issuance of their patent.

The fact that any relief ultimately granted in Wyeth would benefit patentee had they timely filed a request for reconsideration does not make the situation extraordinary. Wyeth followed the procedure set forth in 37 CFR 1.705 for requesting reconsideration of the patent term adjustment determination. Then, pursuant to 35 U.S.C. 154(b)(4)(A), Wyeth timely filed a complaint in District Court seeking judicial review of the Office's decision. A Memorandum Opinion and Order, the Wyeth decision of September 30, 2008, directed to the parties involved was issued.

Petitioner chose not to challenge their revised patent term adjustment within the two-month period. Petitioner's argument that they could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued because the basis for the Request for

Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered more than two months after the issuance of their patent, is not persuasive.

Petitioner could have filed a Request for Reconsideration of Patent Term Adjustment as Wyeth did. It is acknowledged that petitioner may have chosen not to file a request for reconsideration based on a conclusion that the Office's interpretation of 35 U.S.C. § 154(b)(2)(A) was correct. Nonetheless, the fact that the District Court has now issued an Opinion contrary to the Office's interpretation does not make the situation extraordinary. This is not unlike any other situation where a patentee (or applicant) challenges a final agency decision and the decision upon judicial review could have had applicability to another patentee (or applicant) had they taken such action. In fact, many patentees may be in the same situation as petitioner with respect to the Wyeth decision. In addition, given that the law only allows 180 days for both the filing of a petition and for the Office's consideration of that petition, petitioner's unexplained nearly four-month delay in filing the petition weighs against them.

Petitioner simply fails to articulate how their failure to file a request for reconsideration of patent term adjustment within two months of the issue date of the patent was due to an extraordinary situation. Petitioner cannot rely on Wyeth's actions or the Wyeth decision to establish that their situation was extraordinary.

The contention that a decision is in error is a basis for a timely request for review of the decision but does not justify a delay in seeking review of such decision.

The Office provided notice that petitions under 37 CFR 1.182 and 1.183 or requests for certificate of corrections under 35 USC 354 and Sec. 1.323 or 35 U.S.C. 255 and Sec. 1.324 are not substitute fora to obtain reconsideration of a patent term adjustment determination indicated in a notice of allowance if applicant fails to submit a request for reconsideration within the time period specified in Sec. 1.705(b) or to obtain reconsideration of a patent term adjustment determination indicated in a patent if a patentee fails to submit a request for reconsideration within the time period specified in Sec. 1.705. See 69 Fed. Reg. 21704, 21707 (April, 22, 2004).

In view thereof, the petition under 37 CFR 1.183 for waiver of the two-month requirement of 37 CFR 1.705(d) is **dismissed**.

Accordingly, consideration now turns to the Request for Reconsideration of Patent Term Adjustment under 37 CFR 1.705(d).

ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)

This is a decision on the "DETERMINATION OF PATENT TERM ADJUSTMENT - POST GRANT" filed October 24, 2008. Therein, patentee requests correction of the patent term adjustment (PTA) indicated in the patent to nine hundred seventy-one (971) days.

On April 29, 2008, the above-identified application matured into U.S. Patent No. 7,364,736 with a revised patent term adjustment of 521 days. The instant request for reconsideration was filed on October 24, 2008, nearly six months after the issuance of the patent.

No error in the printing of the patent has been shown. The patent term adjustment indicated on the patent reflects the Office's determination of patent term adjustment shown in the PAIR system for this application. 37 CFR 1.705(d) provides the sole avenue before the Office for requesting reconsideration of the Office's determination of patent term adjustment indicated in the patent. Moreover, § 1.705(d) states that "any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section." Since the request was not filed within two months of the issue date of the patent, the request is properly **dismissed as untimely filed**.

CONCLUSION

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

Receipt of the $400.00 petition fee set forth in 37 CFR 1.17(f) is acknowledged. The $200.00 fee set forth in 37 CFR 1.18(e) will be charged to the Deposit Account as authorized.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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

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MAY 05 2010

OFFICE OF PETITIONS

In re Patent No. 7,364,736	:	DECISION ON REQUEST FOR
Boyle et al.	:	RECONSIDERATION OF
Issue Date: April 29, 2008	:	PATENT TERM ADJUSTMENT AND
Application No. 10/180,648	:	NOTICE OF INTENT TO ISSUE
Filed: June 25, 2002	:	CERTIFICATE OF CORRECTION
Docket No. 6843.0049-00000	:	

This is a decision on the renewed petition filed on October 13, 2009,[1] which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by nine hundred seventy-one (971) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The term of the above-identified patent is extended or adjusted by **nine hundred seventy (970) days**.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the B delay period, the over three year period

[1] The Office notes that the above-identified patent issued on April 29, 2008 (before March 2, 2010). Patentee filed the original petition under 37 CFR 1.183 to waive the requirements under 37 CFR 1.705(d) on October 24, 2008, more than 2 months, but less than 180 days, after the patent issued. The petition was dismissed by the decision of August 11, 2009. Patentee timely filed the present renewed petition on October 13, 2009. It is noted that the two-month period to request reconsideration fell on Sunday, October 11, 2009, and Monday, October 12, 2009, was a federal holiday. Therefore, patentee is eligible to request recalculation of patent term adjustment in view of Wyeth without the need to file a petition under 37 CFR 1.183. See 75 Fed. Reg. 5043 (Feb. 1, 2010).

begins on June 26, 2005, and ends on September 17, 2006, the day before the RCE was filed, and is 449 (not 450) days. See 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 970, not 971 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, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office acknowledges the previous submission of the $200.00 fee set forth in 37 CFR 1.18(e). However, the $400.00 fee accompanying the present petition is unnecessary and will be refunded in due course.

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **nine hundred seventy (970) days**.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,364,736 B2

DATED : Apr. 29, 2008 **DRAFT**

INVENTOR(S) : Boyle 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 521 days

Delete the phrase "by 521 days" and insert – by 970 days--

Day : Wednesday

PALM INTRANET

Date: 5/5/2010
Time: 08:54:45

PTA Calculations for Application: 10/180648			
Application Filing Date:	06/25/2002	PTO Delay (PTO):	635
Issue Date of Patent:	04/29/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	474
Post-Issue Petitions:	0	Total PTA (days):	970
PTO Delay Adjustment:	809		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
113	05/05/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	449		
101.5	04/09/2008	PTA 36 MONTHS			
101	04/29/2008	PATENT ISSUE DATE USED IN PTA CALCULATION	22		93
100	03/27/2008	EXPORT TO FINAL DATA CAPTURE			
99	03/26/2008	DISPATCH TO FDC			
98	03/17/2008	MAIL-RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
97	03/17/2008	RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
97	03/17/2008	RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
96	03/14/2008	ADJUSTMENT OF PTA CALCULATION BY PTO			
96	03/14/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	360		
95	01/25/2008	FINISHED INITIAL DATA CAPTURE			
94	01/08/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
93	12/07/2007	ISSUE FEE PAYMENT VERIFIED			
92	12/07/2007	PETITION ENTERED			
91	12/07/2007	ISSUE FEE PAYMENT RECEIVED			
90	11/01/2007	SEQUENCE FORWARDED TO PUBS ON TAPE			
89	10/23/2007	EXPORT TO INITIAL DATA CAPTURE			
88	10/18/2007	MAIL NOTICE OF ALLOWANCE			
87	10/18/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			

86	10/15/2007	ISSUE REVISION COMPLETED			
84	10/15/2007	DOCUMENT VERIFICATION			
83	10/15/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
82	10/15/2007	CASE DOCKETED TO EXAMINER IN GAU			
81	10/15/2007	NOTICE OF ALLOWABILITY			
80	10/05/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
79	09/27/2007	DATE FORWARDED TO EXAMINER			
78	09/20/2007	AMENDMENT AFTER FINAL REJECTION		1	76
77	06/19/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
76	06/19/2007	MAIL FINAL REJECTION (PTOL - 326)			
75	06/08/2007	FINAL REJECTION			
74	05/29/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
73	04/20/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
72	04/20/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
71	04/20/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		38	69
70	03/28/2007	DATE FORWARDED TO EXAMINER			
69	03/13/2007	RESPONSE AFTER NON-FINAL ACTION			
68	12/13/2006	MAIL NON-FINAL REJECTION			
67	12/05/2006	NON-FINAL REJECTION			
66	09/28/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
65	09/28/2006	REFERENCE CAPTURE ON IDS			
64.7	09/28/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		9	60
64	09/28/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
63	09/26/2006	DATE FORWARDED TO EXAMINER			
62	09/19/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
61	09/26/2006	DATE FORWARDED TO EXAMINER			
60	09/19/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)		63	52
59	09/26/2006	DISPOSAL FOR A RCE / CPA / R129			

58	09/19/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
57	09/19/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
56	08/07/2006	MAIL ADVISORY ACTION (PTOL - 303)			
55	08/03/2006	ADVISORY ACTION (PTOL-303)			
54	07/25/2006	DATE FORWARDED TO EXAMINER			
53	07/18/2006	AMENDMENT AFTER FINAL REJECTION			
52	04/18/2006	MAIL FINAL REJECTION (PTOL - 326)			
51	04/14/2006	FINAL REJECTION			
50	01/25/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
49.7	01/25/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	47
49	01/25/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
48	02/09/2006	DATE FORWARDED TO EXAMINER			
47	01/25/2006	RESPONSE AFTER NON-FINAL ACTION		4	44
46	01/25/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
45	10/14/2005	MISCELLANEOUS INCOMING LETTER			
44	10/21/2005	MAIL NON-FINAL REJECTION			
43	10/17/2005	NON-FINAL REJECTION			
42	09/27/2005	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
41	09/16/2005	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
40	07/29/2005	REFERENCE CAPTURE ON IDS			
39.7	07/29/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	37
39	07/29/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
38	08/11/2005	DATE FORWARDED TO EXAMINER			
37	07/29/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
36	07/29/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
35	04/29/2005	MAIL RESTRICTION REQUIREMENT	613		-1
34	04/28/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
33	04/14/2005	CASE DOCKETED TO EXAMINER IN GAU			
32	01/13/2005	CASE DOCKETED TO EXAMINER IN GAU			
31	08/17/2004	IFW TSS PROCESSING BY TECH CENTER			

		COMPLETE			
30	08/05/2004	PRELIMINARY AMENDMENT			
29	03/14/2003	REFERENCE CAPTURE ON IDS			
28.7	03/14/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
28	03/14/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
27	01/27/2003	REFERENCE CAPTURE ON IDS			
26.7	01/27/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
26	01/27/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
25	10/25/2002	NEW OR ADDITIONAL DRAWING FILED			
24	10/25/2002	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
23	10/25/2002	PRELIMINARY AMENDMENT			
22	08/05/2004	WORKFLOW INCOMING AMENDMENT IFW			
21	02/11/2004	CASE DOCKETED TO EXAMINER IN GAU			
20	11/07/2003	APPLICATION RETURN FROM OIPE			
19	11/10/2003	APPLICATION IS NOW COMPLETE			
18	06/25/2002	DRAWING PRELIMINARY AMENDMENT			
17	11/10/2003	PRE-EXAM OFFICE ACTION WITHDRAWN			
16	11/07/2003	APPLICATION RETURN TO OIPE			
15	11/07/2003	APPLICATION DISPATCHED FROM OIPE			
14	11/10/2003	APPLICATION IS NOW COMPLETE			
13	10/24/2003	ADDITIONAL APPLICATION FILING FEES		359	5
12	10/24/2003	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
11	10/24/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
10	10/24/2003	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
9	09/06/2003	CORRESPONDENCE ADDRESS CHANGE			
8	11/22/2002	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
7	11/04/2002	MAIL-RECORD PETITION DECISION OF GRANTED RELATED TO FILING DATE			
6	08/30/2002	PETITION ENTERED			

5	07/30/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	07/11/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	07/11/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	06/26/2002	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Office of the Director
Group 3600

James M. Durlacher
Woodward, Emhardt, Naughton, Moriarty & McNett
111 Monument Circle, Suite 3700
Indianapolis, IN 46204-5137

In re application of
Paul J. South
Application No. 10/180,656
Filed: June 26, 2002
For: MAILBOX WITH TRANSPARENT PANEL

DECISION ON PETITION TO MAKE SPECIAL (COUNTERING TERRORISM)

This is in response to the petition filed on September 10, 2002 to make the above-identified application special on the basis of special examining procedure for certain new applications – inventions for countering terrorism as set forth in MPEP § 708.02 XI.

The Patent and Trademark Office will accord "special" status to patent applications relating to counter-terrorism inventions. 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. Petitioner states that applicant's invention allows anyone to detect or identify if any explosives are placed within the mailbox and precludes any inadvertent triggering of an explosive device. This invention is therefore seen to be the type of technology described above.

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

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

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

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

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

kjd:1/9/03

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AUSTIN TX 78758

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OFFICE OF PETITIONS

In re Application of Zhaoyang Sun et al. Application No. 10/180,674 Filed: June 26, 2002 Attorney Docket No.: SBL0023US Title: USER INTERFACE FOR MULTI-MEDIA COMMUNICATION FOR THE DISABLED	DECISION ON PETITION UNDER 37 C.F.R. § 1.59(B)

This is a decision on the petition filed October 2, 2007, pursuant to 37 C.F.R. § 1.59(b), requesting the expungement of "the Response to Non-Final Office Action, Petition for Extension of Time, and Fee Worksheet filed on October 1, 2007." Petitioner has also requested the expungement of the "Status Letter Mailed to Applicant, which was generated on October 1, 2007[1]."

On October 1, 2007, Petitioner attempted to submit a response to a non-final Office action in Application No. 10/703,053 along with a one-month extension of time. Petitioner has indicated that these documents were "unintentionally submitted" in the present application by mistake.

The electronic record has been reviewed, and it is clear that both the response and the fee associated with the filing of a petition for a one-month extension of time have been preveniently moved from the electronic records associated with this application into those that are associated with Application No. 10/703,053.

1 The undersigned cannot discern what status letter Petitioner is referring to. As such, this status letter will not be addressed in this decsison.

It follows that this petition is **DISMISSED AS MOOT**.

The petition fee will be refunded to Petitioner's Deposit Account in due course.

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/
Paul Shanoski
Senior Attorney
Office of Petitions

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

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John S. Pratt, Esq.
Kilpatrick Stockton, LLP
1100 Peachtree Street
Atlanta, GA 30309

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APR 22 2005

OFFICE OF PETITIONS

In re Application of	:	
Kenneth L. Blakeslee, Jr.	:	
Application No. 10/180,677	:	ON PETITION
Filed: June 26, 2002	:	
Attorney Docket No. 49020/261178	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 7, 2005, to revive the above-identified application.

The petition is **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(s) (1).

A "Notice of Allowance" and "Notice of Allowability" were mailed to applicant on June 17, 2004, which set a three-month statutory period to file a reply, namely the issue fee and corrected drawings. Since no reply was received, the application became abandoned on September 18, 2004.

Although petitioner has submitted the issue fee, there is no indication in USPTO records that corrected drawings, as required by the Notice of Allowability, have not been submitted. In view thereof, the application cannot be revived until corrected drawings are received. A copy of the Notice of Allowability is enclosed herewith.

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

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

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

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

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

Marianne E. Jenkins

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

Enclosure: Notice of Allowability (mailed June 17, 2004)

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Atlanta, GA 30309

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OFFICE OF PETITIONS

In re Application of	:	
Kenneth L. Blakeslee	:	
Application No. 10/180,677	:	ON PETITION
Filed: June 26, 2002	:	
Attorney Docket No. 49020/261178	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed May 11, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely submit the issue fee.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the issue fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

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

The application file is being referred to the Publishing Division to be processed into a patent.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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DEC 17 2009

OFFICE OF PETITIONS

TESTA, HURWITZ & THIBEAULT, LLP
84 STATE STREET, SUITE 760
BOSTON MA 02109

In re Patent No. 6,937,350	:	
Issue Date: Augusts 30, 2005	:	
Application No. 10/180,679	:	LETTER
Filed: June 26, 2002	:	
Attorney Docket No. MIT-094A (5473/l0l)	:	

This is in response to the notice filed by facsimile on July 24, 2009, for acceptance of a fee deficiency submission under 37 CFR 1.28.

Your fee deficiency submission under 37 CFR 1.28 is hereby **NOT ACCEPTED**.

It appears that the petition was not properly signed by a person having authority to prosecute in the above-identified patent. Therefore, the request can not be accepted at this time.

Petitioner's attention is directed to 37 CFR 1.33(b), which states.

> (b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
>
> (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
> (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
> (3) An assignee as provided for under §3.71(b) of this chapter; or
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

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.

Accordingly, the request cannot be accepted until it is signed by all inventors, an attorney/agent who is registered to practice before the U.S. Patent and Trademark Office, or the assignee of the entire interest. If the request is signed by an assignee, the assignee must comply with the requirements of 37 CFR 3.73(b).

Inquiries concerning this communication should be directed to the undersigned at (571) 272-3213.

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

cc: Daniel O' Brien
Massachusetts Institute of Technology
Technology Licensing Office
Five Cambridge Center, Kendall Square
Cambridge, Massachusetts 02142-1493

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WASHINGTON, D.C. 20231
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Paper No. 05

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

MAR - 3 2003

In re Application of:	:	
Paton, *et al.*	:	
Application No. 10/180,686	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Filed: June 25, 2002	:	
For: METHOD AND DEVICE USING SILICIDE CONTACTS FOR SEMICONDUCTOR PROCESSING	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed February 07, 2003.

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

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

The request is approved.

The application currently has no attorney of record.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4/9/09

Paper No.: _____

TO SPE OF : ART UNIT 2616

SUBJECT : Request for Certificate of Correction for Appl. No.: 10180696 Patent No.: 7327742

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Valerie Jackson
Certificates of Correction Branch
703-308-9390 ext. 114

Thank You For Your Assistance

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

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

Comments: The request for the certificate of correction has been examined. There is no changed the scope of the claim or invention or no new matter introduced.

/Ayaz Sheikh/
SPE

2419
Art Unit

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Zezhen Huang
5 Beaver Brook Road
Canton MA 02021

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NOV 16 2005

OFFICE OF PETITIONS

In re Application of
Zezhen Huang
Application No. 10/180,705
Filed: June 26, 2002
For: Trusted Computer Activity Monitoring and Recording System and Method

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(f), filed November 2, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the present nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of an application filed in an eighteen-month publication country on June 19, 2003. However, the USPTO was unintentionally not notified of this filing within forty-five days subsequent to the filing of the subject application in an eighteen-month publication country. Accordingly, this application became abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications eighteen months after filing.

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

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

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

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

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

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

This matter is being referred to the Office of Initial Patent Examination to set a projected publication date for the present application, and to mail petitioner a corrected filing receipt indicating such.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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FOLEY & LARDNER
555 South Flower Street
SUITE 3500
LOS ANGELES, CA 90071-2411

Mail Date: 04/21/2010

Applicant	: Luis J. Malave	: DECISION ON REQUEST FOR
Patent Number	: 7647237	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/180,732	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/26/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1358** 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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RICHARD M. SHARKANSKY
P.O. BOX 557
MASHPEE, MA 02649

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NOV 0 1 2005

OFFICE OF PETITIONS

In re Patent No. 6,934,158	:	
Issue Date: August 23, 2005	:	
Application No. 10/180,750	:	ON PETITION
Filed: June 26, 2002	:	
Attorney Docket No. EMC2-119PUS	:	

This is a decision on the petition filed August 26, 2005, which is being treated as a petition under 37 CFR 3.81(b)[1] to add assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This matter is being referred 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. 5

BOSCO KIM
SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
186 WOOD AVENUE SOUTH
ISELIN, NJ 08830

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JUL 0 1 2003

OFFICE OF PETITIONS

In re Application of :
Thomas L. Allgeyer et al :
Application No. 10/180,757 : ON PETITION
Filed: June 26, 2002 :
Attorney Docket No. 24914-131B :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed August 6, 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 7, 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 of currently of record until such time as appropriate instructions are received to the contrary.

Pursuant to petitioner's authorization, Deposit Account No. 19-2179 was charged $1,300.00 for the petition to revive an unintentionally abandoned application.

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

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

Wan Laymon

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

cc: SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

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Paper No. 4

HONEYWELL INTERNATIONAL INC.
LAW DEPT. AB2
P.O. BOX 2245
101 COLUMBIA ROAD
MORRISTOWN NJ 07962

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OCT 0 4 2002

OFFICE OF PETITIONS

In re Application of	:
Jesse L. Pedigo	:
Application No. 10/180,835	: DECISION DISMISSING
Filed: 25 June, 2002	: PETITION
Att'y Docket No. 30-4979 CON (4962)	:

This is a decision on the petition filed on 29 August, 2002, requesting that the above-identified application be accorded a filing date of 25 June, 2002, with Figures 13, 14, and 15 described in the specification as a part of the original disclosure.

On 25 June, 2002, the application was filed.

On 5 August, 2002, the Office of Initial Patent Examination (OIPE) mailed a Notice of Omitted Item(s) in a Nonprovisional Application stating that the application had been accorded a filing date of 25 June, 2002, but that Figures 13, 14, and 15, described in the specification (description and claims) appeared to have been omitted from the application.

In response, on 29 August, 2002, the present petition was filed. Petitioner argues that Figures 13, 14, and 15 were not missing on 25 June, 2002. In support, a copy of petitioner's postcard receipt was supplied with the present petition. Petitioner requests that the application be accorded a filing date of 25 June, 2002, with Figures 13, 14, and 15 as a part of the original disclosure.

The argument and evidence supplied with the petition have been carefully considered, but are not persuasive. The USPTO has a well-established and well-publicized practice of providing a receipt for papers filed in the USPTO to any applicant desiring a

receipt. The practice 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).

Unfortunately, in this case, petitioners' postcard receipt fails to itemize the papers allegedly filed in this application. The postcard receipt does not itemize the number of sheets and figures of drawings filed, or any drawings at all. A postcard receipt will not serve as prima facie evidence of receipt in the USPTO of any items which are not properly itemized and identified.

The petition is dismissed.

It is noted that the first paragraph of the specification states that provisional Application Nos. 60/208,454 and 60/208,456 are incorporated by reference herein in their entirety. MPEP 201.06(c) states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition. (emphasis supplied)

Obviously, in view of the incorporation by reference of the prior application, Figures 13, 14, and 15 of the specification are not new matter if they were a part of the disclosure of the prior application.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of 25 June, 2002, using the application papers filed on that date.

Petitioner may file Figures 13, 14 and 15 as a preliminary amendment.

As this petition was necessitated by applicants' filing error rather than an error on the part of the Office, the petition fee will not be refunded.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 25 June, 2002, using the application papers filed on that date.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Douglas I. Wood, at (703)308-6918.

D Wood

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

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 5

Glen E. Books, Esq.
Lowenstein Sandler
65 Livingston Avenue
Roseland, NJ 07068

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OCT 24 2002

OFFICE OF PETITIONS

In re Application of :
Madsen :
Application No. 10/180,842 : DECISION GRANTING PETITION
Filed: August 19, 2002 :
Attorney Docket No. Madsen 19 :

This is a decision on the petition filed August 19, 2002, to accord the above-identified application a filing date of August 19, 2002.

On June 26, 2002, the application was deposited.

On July 17, 2002, the Office of Initial Patent Examination mailed a Notice stating that Figures 5 and 6 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 5 and 6 submitted with the petition will be used for examination purposes.

Petitioner should note that a surcharge is not due under 37 CFR 1.16(l) since the oath/declaration is being submitted on the filing date of the application, August 19, 2002, and not after the filing date.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of August 19, 2002, using the application papers filed on June 26, 2002, and the copy of Figures 5 and 6 filed on August 19, 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

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Snell & Wilmer L.L.P. (AMEX)
ONE ARIZONA CENTER
400 E. VAN BUREN STREET
PHOENIX, AZ 85004-2202

Mail Date: 04/23/2010

Applicant	: Donna A. Antonucci	: DECISION ON REQUEST FOR
Patent Number	: 7606730	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/180,843	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/25/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1560** 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. 10

XILINX INC
ATTN: LEGAL DEPARTMENT
2100 LOGIC DR
SAN JOSE, CA 95124

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OCT 1 5 2003

OFFICE OF PETITIONS

In re Application of
Mohsen Hossein et al
Application No. 10/180,860
Filed: June 25, 2002
Attorney Docket No. X-1103 US

ON PETITION

This is a decision on the petition, filed by facsimile transmission on October 14, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 14, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (703) 306-5685.

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 IDS.

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

---

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

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& MESITI PC
5 COLUMBIA CIRCLE
ALBANY, NY 12203

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OFFICE OF PETITIONS

In re Application of

Schools, et al.

Application No. 10/180,877

Filed: June 26, 2002

Attorney Docket No. 208501

DECISION ON PETITION

This is a decision on petition under 37 CFR 1.137(b), filed November 16, 2006, to revive the above-identified application.

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

This application became abandoned for failure to respond in a timely manner to the Notice of Allowance and Issue Fee Due and Notice of Allowability mailed May 18, 2006. The notice allowed a statutory period for reply of three months from its mailing date. No reply was received within the allowable period, and the application became abandoned on August 19 2006. A Notice of Abandonment was mailed on September 27, 2006.

Form PTOL-85B, the issue fee payment and publication fee were received on November 16, 2006.

Corrected drawings were received on November 16, 2006.

The application is being forwarded to the Office of Patent Publications 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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Paper No. 4

John V. Biernacki
Jones, Day, Reavis & Pogue
North Point
901 Lakeside Avenue
Cleveland, OH 44114

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APR 2 8 2003

OFFICE OF PETITIONS

In re Application of
Liang Shen and Umakanthan Shunmuganathan
Application No.10/180,894
Filed: June 26, 2002
Attorney Docket Number: 668437600006
Title of Invention:
COMPUTER-IMPLEMENTED VOICE MARKUP SYSTEM AND METHOD

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed February 21, 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 after having been presented with the application papers. Specifically, the declaration of John v. Biernacki and Ronald Jewell attest a copy of the application was sent to non-signing inventor's last known address via Federal Express. The non-signing inventor's failure to respond to the application and verbal refusal sufficiently establishes that he refuses to execute 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.

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) 306-0251.

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Liang Shen
42 Page Avenue
North York, Ontario
M2K 2B4
Canada

COPY MAILED

APR 2 8 2003

OFFICE OF PETITIONS

In re Application of
Liang Shen and Umakanthan Shunmuganathan
Application No.10/180,894
Filed: June 26, 2002
Attorney Docket Number: 668437600006
Title of Invention:
COMPUTER-IMPLEMENTED VOICE MARKUP SYSTEM AND METHOD

LETTER

Dear Mr. Shen:

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 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

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

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

John V. Biernacki
Jones, Day, Reavis & Pogue
North Point
901 Lakeside Avenue
Cleveland, OH 44114

UNITED STATES 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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DEC 1 8 2009

OFFICE OF PETITIONS

CENTRAL COAST PATENT AGENCY, INC
3 HANGAR WAY SUITE D
WATSONVILLE CA 95076

In re Application of	:	
Liang SHEN	:	
Application No. 10/180,894	:	NOTICE
Filed: June 26, 2002	:	
Attorney Docket No. **668437600006**	:	

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 applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to Tredelle Jackson at (571) 272-2783.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JOHN E. BURKE
GREENBERG TRAURIG LLP
1200 17TH STREET, SUITE 2400
DENVER, CO 80202

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SEP 15 2005

OFFICE OF PETITIONS

In re Application of	:	
Allen	:	DECISION ON PETITION
Application No. 10/180,902	:	
Filed: June 25, 2002	:	
Atty. Dkt. No.: R-720	:	

This decision is in response to the petition under 37 CFR 1.137(b), filed August 24, 2005.

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application became abandoned March 1, 2005 for failure to timely submit a proper reply to the final Office action mailed October 28, 2004. The final Office action set a three (3) month shortened statutory period of time for reply. A one month extension of time was granted. This decision precedes Notice of Abandonment.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to paragraph (d) of this section.

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the final Office action mailed March 29, 2004 is accepted as having been unintentionally delayed.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the application, the application is again abandoned in favor of the continuation application 11/211,370, filed August 24, 2005.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $1,080.00 extension of time fee submitted herewith was subsequent to the maximum period obtainable for reply, this fee is unnecessary. Petitioner may request a refund of this fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JOHN E. BURKE
GREENBERG TRAURIG LLP
1200 17TH STREET, SUITE 2400
DENVER, CO 80202

COPY MAILED

SEP 15 2005

OFFICE OF PETITIONS

In re Application of	:
Allen	: DECISION ON PETITION
Application No. 10/180,903	:
Filed: June 25, 2002	:
Atty. Dkt. No.: R-720	:

This decision is in response to the petition under 37 CFR 1.137(b), filed August 24, 2005.

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application became abandoned March 1, 2005 for failure to timely submit a proper reply to the final Office action mailed October 28, 2004. The final Office action set a three (3) month shortened statutory period of time for reply. A one month extension of time was granted. This decision precedes Notice of Abandonment.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to paragraph (d) of this section.

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the final Office action mailed March 29, 2004 is accepted as having been unintentionally delayed.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the application, the application is again abandoned in favor of the continuation application 11/211,370, filed August 24, 2005.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $1,080.00 extension of time fee submitted herewith was subsequent to the maximum period obtainable for reply, this fee is unnecessary. Petitioner may request a refund of this fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

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NOV 05 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Ullrich Benner et al	:	
Application No. 10/180,916	:	
Filed: June 26, 2002	:	
Attorney Docket No. 56/378	:	

This is a decision on the petition, filed November 4, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 9, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2878 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 for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JAN 12 2005

DELTAGEN, INC.
1031 Bing Street
San Carlos CA 94070

In re Application of:
Keith D. Allen
Serial No.: 10/180,919
Filed: June 25, 2002
Attorney Docket No.: R-797

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicant's petition under 37 CFR. § 1.181(a) and MPEP 711.03(c) filed on July 28, 2004, requesting withdrawal of the holding of abandonment of the above-identified application based on non-receipt of an Office action and to restore the application to a pending status.

A review of the file history shows that the Office mailed a first Office action, setting a three-month statutory time period for reply, to applicants on October 1, 2003. On May 18, 2004 the examiner mailed a notice of abandonment for failure to respond to the outstanding Office action.

Applicant states that the Office action of October 1, 2003 was never received and provides as evidence thereof a copy of the attorney docket report where the Office action would have been entered if received, showing non-receipt of the Office action. Based on the evidence presented, it is concluded that applicant never received the Office action. In view thereof, the Notice of Abandonment mailed May 18, 2004, is vacated and the application is restored to pending status with the mailing date of this decision.

Applicant's petition is **GRANTED**. The application will be forwarded to the examiner for prompt mailing of a new Office action.

Should there be any questions about this decision, please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile at 703-872-9306.

Jasemine C. Chambers
Director, Technology Center 1600

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JOHN E. BURKE
GREENBERG TRAURIG LLP
1200 17TH STREET, SUITE 2400
DENVER, CO 80202

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DEC 0 6 2006
OFFICE OF PETITIONS

In re Application of
Michael W. Leviten
Application No. 10/180,927
Filed: June 25, 2002
Attorney Docket No. R-437

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed July 19, 2006.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before July 14, 2006. This decision precedes the mailing of a Notice of Abandonment. On July 19, 2006, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the requisite issue/publication fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay[1].

The application is being referred to the Office of Publications to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND, WA 98052

MAILED

MAR 03 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Andrew Christopher Levin et al :
Application No. 10/180,954 :
Filed: June 26, 2002 :
Attorney Docket No. MS1-1171US :

This is a decision on the petition under 37 CFR 1.137(b), filed February 11, 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.

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 application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 25, 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). There was no reply received with the petition submitted on February 11, 2009. This petition can not be granted until a reply to the Final Office action of July 25, 2008 is received.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/180,954	06/26/2002	Andrew Christopher Levin	MS1-1171US

CONFIRMATION NO. 7483

22971
MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND, WA 98052-6399

POWER OF ATTORNEY NOTICE

OC000000034779093

Date Mailed: 03/02/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/11/2009.

- 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).

/idingle/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/180,954	06/26/2002	Andrew Christopher Levin	MS1-1171US

CONFIRMATION NO. 7483

POA ACCEPTANCE LETTER

69316
MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND, WA 98052

OC000000034779212

Date Mailed: 03/02/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/11/2009.

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.

/idingle/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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Alexandria, VA 22313-1450
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MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND, WA 98052

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MAY 27 2009

OFFICE OF PETITIONS

In re Application of :
Andrew Christopher Levin et al :
Application No. 10/180,954 :
Filed: June 26, 2002 :
Attorney Docket No. 300223.01 :

ON PETITION

This is a decision on the renewed 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.

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 S-Signature on the Request for Continued Examination (RCE) under 37 CFR 1.114 submitted with the petition on May 1, 2009 is not accepted. See 37 CFR 1.4(d)(2). This petition can not be treated until a proper signature on the RCE is received.

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

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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MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND, WA 98052

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AUG 3 1 2009

OFFICE OF PETITIONS

In re Application of :
Andrew Christopher Levin et al :
Application No. 10/180,954 :
Filed: June 26, 2002 :
Attorney Docket No. 300223.01 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 27, 2009, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 25, 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 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 October 26, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810 and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This application is being referred to Technology Center AU 2176 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

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OCT 30 2006

OFFICE OF PETITIONS

In re Application of	:	
Cheng, et al.	:	
Application No. 10/180,987	:	DECISION ON PETITION
Filed: June 27, 2002	:	TO WITHDRAW
Attorney Docket No. SIEB-046/00US	:	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 9, 2005.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Perkins Coie, LLP has been revoked by the assignee of the patent application on September 25, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: Sam Campbell
Campbell, Stephenson Ascoloese, LLP
4807 Spicewood Spring Road
Bldg. 4, Suite 201
Austin, TX 78759

UNITED STATES PATENT AND TRADEMARK OFFICE

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MARINA PORTNOVA
BLAKELY, SOKOLOFF, TAYLOR AND ZAFMAN, LLC
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085

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OCT 30 2006

OFFICE OF PETITIONS

In re Application of	:	
Kit Man Cheng, et al.	:	
Application No. 10/180,987	:	DECISION ON PETITION
Filed: June 27, 2002	:	TO WITHDRAW
Attorney Docket No. 005306.P143	:	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 June 15, 2006.

The request is **APPROVED**.

A review of the file record indicates that Blakely, Sokoloff, Taylor and Zafman, LLC: (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, Blakely, Sokoloff, Taylor and Zafman, LLC has/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).

Applicant is reminded that that power of attorney has been granted to Campbell, Stephenson Asocolese, LLP in view of the Revocation of Power of Attorney filed on September 11, 2006. All future communications from the Office will be directed to the address listed below.

Telephone inquires concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: CSA LLP
4807 SPICEWOOD SPRINGS RD.
BLDG. 4, SUITE 201
AUSTIN TX 78759

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 7/13/09 **Paper No.:** —

TO SPE OF : ART UNIT 2419

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/180988 Patent No.: 7460525 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 request for corrections have been reviewed and no new matter has been introduced or changed the scope of the claims.

/Ayaz Sheikh/ — **SPE**

2419 — **Art Unit**

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William A Skinner
Advanced Elastomer Systems
388 South Main Street
Akron, OH 44311-1065

COPY MAILED

SEP 12 2005

OFFICE OF PETITIONS

In re Application of :
Ouhadi, et al. : DECISION ON PETITION
Application No. 10/181,003 :
Filed: July 11, 2002 :
Atty. Dkt. No.: 9548 :

This is a decision on the petition for revival under 37 CFR 1.137(b), filed July 11, 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 mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency decision.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(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(b) 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 instant petition fails to satisfy requirement (1) set forth above. The amendment submitted herewith has been reviewed by the examiner of record who has determined that the amendment fails to place the application in condition for allowance. See enclosed.

Any renewed petition must be accompanied by a proper response to the outstanding Office action. A response may be an amendment that places the application in condition for allowance, a request for continued examination, including, *inter alia*, a

submission and required fee, a Notice of Appeal (and appropriate fee), or a continuation application (and appropriate fee).

Further correspondence with respect to this matter should be addressed as follows:

By mail: **Mail Stop Petition**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300

By hand: U.S. Patent and Trademark Office
Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosures: USPTO Privacy Statement
Advisory Action
Notice of Non-Compliant Amendment

UNITED STATES 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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JUN 22 2006
OFFICE OF PETITIONS

William A Skinner
Advanced Elastomer Systems
388 South Main Street
Akron, OH 44311-1065

In re Application of :
Ouhadi, et al. : DECISION ON PETITION
Application No. 10/181,003 :
Filed: July 11, 2002 :
Atty. Dkt. No.: 9548 :

This is a decision on the renewed petition for revival under 37 CFR 1.137(b), filed October 6, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency decision.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(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(b) 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 instant petition fails to satisfy requirement (1) set forth above. The amendment submitted herewith has been reviewed by the examiner of record who has determined that the amendment fails to place the application in condition for allowance. See enclosed.

Any renewed petition must be accompanied by a proper response to the outstanding Office action.

Further correspondence with respect to this matter should be addressed as follows:

By mail: **Mail Stop Petition**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300

By hand: U.S. Patent and Trademark Office
Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosures: PTOL-303

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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NOV 1 3 2006
OFFICE OF PETITIONS

William A Skinner
Advanced Elastomer Systems
388 South Main Street
Akron, OH 44311-1065

In re Application of :
Ouhadi, et al. : DECISION ON PETITION
Application No. 10/181,003 :
Filed: July 11, 2002 :
Atty. Dkt. No.: 9548 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed August 14, 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 final Office action mailed August 2, 2004. The final Office action set a three (3) month shortened statutory period of time for reply. Notice of Abandonment was mailed June 15, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(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(b) 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 instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the final Office action is accepted as having been unintentionally delayed.

This application file is being forwarded to Technology Center 1700 for processing of the RCE submitted herewith.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

16 SEP 2002

#5

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Bradley D. Beck
BUTLER, SNOW, O'MARA, STEVENS & CANNADA
6075 Poplar Avenue, Suite 500
Memphis, Tennessee 38119

In re Application of SOPER, Kevin James *et al* U.S. Application No.: 10/181,015 PCT No.: PCT/AU01/00005 Int. Filing Date: 04 January 2001 Priority Date: 04 January 2000 Attorney Docket No.: 024813.44432 For: DUAL IMAGE SLIDE AND/OR VIDEO PROJECTOR	**DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)**

Applicants' "Petition for Revival of an International Application for Patent Designating the US Abandoned Unintentionally Under 37 CFR 1.137(b)" filed with the national stage papers on 12 July 2002 in the above-captioned application is hereby **GRANTED** as follows:

The appropriate basic national fee, petition fee and surcharge fee for a small entity have been paid. Applicants state that "[t]he entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

An executed declaration was not provided. Accordingly, this application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that the declaration in compliance with 37 CFR 1.497(a) and (b) is required.

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

H:A

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SEP 3 2004

Paper No. 072804

Susan B. Fentress
Butler Snow
PO Box 171442, Suite 500
Memphis, TN 38187

In re Application of:	:	
Kevin James Soper	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Serial No.: 10/181,016	:	
Filed: November 4, 2002	:	
Attorney Docket No.: **024813.44431**	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed February 12, 2004.

The request is **DISMISSED** as moot.

A review of the application file record reveals a proper revocation and power of attorney to the attorneys of Francis Law Group was filed on August 8, 2003. As such, the power of attorney for the attorneys and agents requesting withdrawal has already been revoked. Accordingly, the present request is moot, and must be dismissed.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Inquiries related to this decision should be directed to Jose G. Dees at (571) 272-1569.

Jose G. Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Ralph Francis
Francis Law Group
1808 Santa Clara Avenue
Alameda, CA 94501

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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JUN 2 3 2004

In re Application of Rick Green Serial Number : 10/181,030 Filed : October 09, 2002 For : DRIED HONEY ENRICHED WITH VOLATILE HONEY COMPOUNDS	: : : : : :	WITHDRAWAL FROM ISSUE

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The application is being withdrawn to permit reopening of prosecution. The reasons therefore will be communicated to you by the examiner.

PTO records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee to applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a deposit account.

The application is being forwarded to the examiner for action.

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Ralph A. Dowell
Dowell & Dowell
Suite 309
1215 Jefferson Davis Highway
Arlington, VA 22202

cc:Allowed Files, Pk3-915

13 NOV 200

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Gary S. Kindness
Christensen O'Connor Johnson Kindness, PLLC
1420 Fifth Avenue
Suite 2800
Seattle, WA 98101

In re Application of NEMETH et al	:	
U.S. Application No.: 10/181,048	:	
Int. Application No.: PCT/AU00/01608	:	DECISION
Int. Filing Date: 29 December 2000	:	
Priority Date: 30 December 1999	:	
Attorney Docket No.: CASM119394	:	
For: METHOD OF DETERMINING A CHARACTERISTIC OF A SECURITY DOCUMENT, SUCH AS A BANKNOTE	:	

This is in response to applicant's "Communication" filed 21 October 2002.

BACKGROUND

On 29 December 2000, applicant filed international application PCT/AU00/01608, which claimed priority of an earlier Australia application filed 30 December 1999. A copy of the international application was communicated to the USPTO from the International Bureau on 12 July 2001. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 01 July 2002 (30 June 2002 was a Sunday).

On 01 July 2002, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 11 September 2002, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 21 October 2002, applicant filed the present communication along with copies of certain documents purportedly filed on 26 September 2002. The communication is being treated as a petition to accord the documents an original filing date of 26 September 2002.

DISCUSSION

The petition states that documents including, *inter alia*, an executed declaration were filed on 26 September 2002 but identified incorrect U.S. Application Number 10/180,048 instead of the correct U.S. Application Number 10/181,048. However, applicant has not submitted true copies of the originally filed correspondence and has not furnished an appropriate return postcard receipt. Therefore, the copies of the correspondence filed with the present petition are not entitled to a filing date of 26 September 2002. It is noted, however, that the declaration filed with the present petition is a timely reply to the Notification of Missing Requirements mailed 11 September 2002.

CONCLUSION

For the reasons above, the petition is DISMISSED without prejudice.

The application has an International Filing Date of 29 December 2000 and a date under 35 U.S.C. 371 of 21 October 2002.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Sincerely

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

25 OCT 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

#3

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Lisa M. McGeehan
Brobeck, Phleger & Harrison LLP
12390 El Camino Real
San Diego, California 92130

In re Application of	:	
BEELEY et al.	:	
Application No.: 10/181,102	:	DECISION ON PETITION
PCT No.: PCT/US98/16387	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 06 August 1998	:	
Priority Date: 08 August 1997	:	
Attorney Docket No.: 030639.0043.UTL1	:	
For: NOVEL EXENDIN AGONIST COMPOUNDS		

The petition to revive under 37 CFR 1.137(b) filed 11 July 2002 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicants have submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration along with the $130 surcharge for filing the oath or declaration after the thirty-month period is required.

Anthony Smith

Anthony Smith
Attorney-Advisor
PCT Legal Office
Telephone: (703) 308-6314
Facsimile: (703) 308-6459

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

WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

Mail Date: 04/21/2010

Applicant	: Mano D. Judd	: DECISION ON REQUEST FOR
Patent Number	: 7577398	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/181,109	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/10/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1710** 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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#6

16 JUL 2003

William E. McShane
Connolly Bove Lodge & Hutz LLP
PO Box 2207
Wilmington, DE 19899

In re Application of	:	
SCHWEFER, Meinhard et al.	:	
Application No.: 10/181,120	:	DECISION ON
PCT No.: PCT/EP01/00158	:	
Int. Filing Date: 09 January 2001	:	PETITION
Priority Date: 14 January 2000	:	
Attorney Docket No.: 200ku02.us	:	UNDER 37 CFR 1.181
For: ELIMINATION OF NITROUS OXIDE	:	
DURING NITRIC ACID PRODUCTION	:	

This decision responds to "Response to Notice of Abandonment," filed 07 April 2003. It has been treated as a petition under 37 CFR 1.181

BACKGROUND

On 09 January 2001, applicants filed international application PCT/EP01/00158. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 19 July 2001. On 30 June 2001, a demand for international preliminary examination was filed prior to nineteen months from the priority date. As such, the deadline for entry into the national stage in the United States is thirty months from the priority date, or 15 July 2002 (14 July 2002 was a Sunday).

On 12 July 2002, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 13 September 2002, the Office mailed Notification of Missing Requirements (Form PCT/DO/E0/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

On 08 January 2003, applicants filed a declaration, the surcharge for late filing of the oath or declaration, a petition for an extension of time under 37 CFR 1.136(a) and the fee for the extension of time.

On 17 March 2002, the Office mailed Notice of Abandonment indicating that the application went abandoned for failure to timely respond to the 13 September 2002 Notice to File Missing Parts.

On 07 April 2003, applicants filed the instant petition under 37 CFR 1.181.

DISCUSSION

The 07 April 2003 petition is moot. The 08 January 2003 submission is in the file.

The declaration complies with 37 CFR 1.497(a)-(b).

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **DISMISSED AS MOOT**.

The Notice of Abandonment mailed 17 March 2003 is **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification of Acceptance (Form PCT/DO/EO/903) and filing receipt. The 35 U.S.C. §371(c) date is 08 January 2003.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 703-305-0455
Facsimile: 703-308-6459

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CONNOLLY BOVE LODGE & HUTZ, LLP
P O BOX 2207
WILMINGTON DE 19899

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OFFICE OF PETITIONS

In re Application of
Schwefer, et al.
Application No. 10/181,120
Filed: January 8, 2003
Attorney Docket No. 200ku02.us//09600-00005-US
For: REMOVAL OF LAUGHING GAS IN NITRIC ACID PRODUCTION

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed January 31, 2008, requesting that the Office withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

A Notice of Appeal and a Pre-Appeal Brief Request for Review were filed on February 15, 2006. On April 6, 2006, the Office mailed a Notice of Panel Decision from Pre-Appeal Brief Review. The Notice in the application file states that the panel decided to proceed to the Board and required applicants to file an Appeal Brief within one month of the mail date of the Notice or the balance of the 2 month period from the filing of the Notice of Appeal, whichever period was longer. No reply was received in the Office. The Office contended this application became abandoned on May 7, 2006. A Notice of Abandonment was mailed on January 8, 2008.

Petitioners argue that the application did not become abandoned because a different Notice of Panel Decision from Pre-Appeal Brief Review was received at the correspondence address of record.

Petitioners have provided a copy of the Notice they received. It states that the panel decided to reopen prosecution and that a new Office action would be mailed and that no further action on the part of applicants was necessary.

It is apparent that the Office mailed one Notice to applicants and included the other Notice in the application file. Accordingly, the petition under 37 CFR 1.181 is granted, the holding of

abandonment is withdrawn, and the January 8, 2008 Notice of Abandonment is vacated. No petition fee has been or will be charged in connection with this matter.

After the mailing of this decision, the application file will be returned to Technology Center A.U. 1793 to ascertain which Notice is the proper Notice and for its re-mailing. A new period for reply will run from the mail date of the Notice.

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

29 OCT 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Raymond M. Galasso
Simon, Galasso & Frantz PLC
P.O. Box 26503
Austin, TX 78755-0503

In re Application of PEARSON et al	:	
U.S. Application No.: 10/181,128	:	
Int. Application No.: PCT/GB01/00150	:	DECISION
Int. Filing Date: 15 January 2001	:	
Priority Date: 14 January 2000	:	
Attorney Docket No.: 1495.DLTD00003	:	
For: POLYMERISABLE RESIN COMPOSITIONS	:	
FOR USE IN DENTISTRY	:	

This is in response to the correspondence filed 25 October 2002, which is being treated as a petition under 37 CFR 1.181.

BACKGROUND

On 15 January 2001, applicant filed international application PCT/GB01/00150, which claimed priority of an earlier United Kingdom application filed 14 January 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 19 July 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 10 August 2001, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 15 July 2002 (14 July 2002 was a Sunday).

On 11 July 2002, applicant filed purported national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was not accompanied by the basic national fee required by 35 U.S.C. 371(c)(1).

On 10 September 2002, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned as to the United States for failure to timely file the basic national fee.

On 01 October 2002, purportedly filed a petition under 37 CFR 1.137(b).

On 25 October 2002, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

I. Petition Under 37 CFR 1.181

The evidence of record is sufficient to establish that the petition under 37 CFR 1.137(b) was filed on 01 October 2002. Specifically, the petition under 37 CFR 1.181 includes a copy of a return postcard receipt, which includes a petition under 37 CFR 1.137(b) in its itemized contents and which bears a USPTO date stamp of 01 October 2002, serves as *prima facie* evidence that the petition was received by the USPTO on 01 October 2002.

II. Petition Under 37 CFR 1.137(b)

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required basic national fee under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons in §I above, the petition under 37 CFR 1.181 is GRANTED.

For the reasons in §II above, the petition under 37 CFR 1.137(b) is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and

mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be submitted.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

03 FEB 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Raymond M. Galasso
Simon, Galasso & Frantz PLC
P.O. Box 26503
Austin, TX 78755-0503

In re Application of PEARSON et al	:	
U.S. Application No.: 10/181,128	:	
Int. Application No.: PCT/GB01/00150	:	COMMUNICATION
Int. Filing Date: 15 January 2001	:	
Priority Date: 14 January 2000	:	
Attorney Docket No.: 1495.DLTD00003	:	
For: POLYMERISABLE RESIN COMPOSITIONS	:	
FOR USE IN DENTISTRY	:	

This application is before the PCT Legal Office for consideration of issues arising under 35 U.S.C. 371.

BACKGROUND

On 15 January 2001, applicant filed international application PCT/GB01/00150, which claimed priority of an earlier United Kingdom application filed 14 January 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 19 July 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 10 August 2001, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 15 July 2002 (14 July 2002 was a Sunday).

On 11 July 2002, applicant filed purported national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was not accompanied by the basic national fee required by 35 U.S.C. 371(c)(1).

On 10 September 2002, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned as to the United States for failure to timely file the basic national fee.

On 01 October 2002, applicant filed a petition under 37 CFR 1.137(b).

On 25 October 2002, applicant filed a petition under 37 CFR 1.181.

On 29 October 2002, this Office mailed a decision granting the 01 October 2002 petition under 37 CFR 1.137(b) and the 25 October 2002 petition under 37 CFR 1.181.

On 12 November 2002, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 and a Withdrawal of Previously Sent Notice.

DISCUSSION

The Withdrawal of Previously Sent Notice erroneously states that the Notification of Abandonment mailed 10 September 2002 was sent in error.

CONCLUSION

Accordingly, the Withdrawal of Previously Sent Notice mailed 12 November 2002 is hereby VACATED.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) to await applicant's reply to the Notification of Missing Requirements mailed 12 November 2002.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

19 MAR 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Diana Hamlet-Cox
Incyte Genomics Inc.
3160 Porter Drive
Palo Alto, CA 94304

In re Application of	:	DECISION ON
LAL et al.	:	
Application No.: 10/181,129	:	PETITION UNDER
PCT No.: PCT/US01/00895	:	
Int. Filing Date: 10 January 2001	:	37 CFR 1.182
Priority Date: 14 January 2000	:	
For: SECRETED PROTEINS	:	

This is a decision on applicants' "Communication" treated as a petition under 37 CFR 1.182, filed with the United States Patent and Trademark Office (USPTO) on 11 July 2002. Applicants request that the application reflect joint inventor Chandra Patterson family name change from Chandra Patterson to Chandra Arvizu. The $130 petition fee was authorized to be paid from applicants' deposit account.

On 11 July 2002, within 30 months from priority date of the international application, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*,: the requisite basic national fee and an executed declaration. The published international application indicated that the inventors/applicants for the United States of America included Chandra Patterson as a named joint inventor.

On 11 July 2002, applicants also filed the instant communication indicating that Chandra Patterson married and changed her family name to Chandra Arvizu subsequent to the filing of the international application. However, applicants did not submit an affidavit signed by Chandra Patterson indicating the reason for the name change.

03/21/2003 SNAJARRO 00000017 090108 10181129
01 FC:1460 130.00 CH

DISCUSSION

As explained in MPEP 605.04(c), applicants must provide a signed affidavit setting forth both names and the procedure whereby the change of name was effected, or a certified copy of the court order. Here, applicant only submitted the statement of the attorney regarding the change of name of Chandra Patterson. Applicant did not submit a signed affidavit setting forth the procedure whereby the change of name was effected and identifying both names, Chandra Patterson and Chandra Arvizu. In lieu of this affidavit, applicant may file a certified copy of the court order. Thus, the evidence is insufficient to conclude that Chandra Patterson changed her

name by marriage to Chandra Arvizu.

CONCLUSION

The petition under 37 CFR 1.182 to change the inventor's name from Chandra Patterson to Chandra Arvizu is **DISMISSED WITHOUT PREJUDICE**.

Any reconsideration on the merits of this petition must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled " Renewed Petition Under 37 CFR 1.182."

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: 703-306-5467

19 NOV 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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#7

MICHELE M. SIMKIN, ESQ.
FOLEY & LARDNER, LLP
WASHINGTON HARBOUR
3000 K STREET, NW
WASHINGTON, DC 20007-5109

In re Application of LAL et al. Application No.: 10/181,129 PCT No.: PCT/US01/00895 Int. Filing Date: 10 January 2001 Priority Date: 14 January 2000 For: SECRETED PROTEINS	DECISION ON PETITION UNDER 37 CFR 1.182

This is a decision on applicants' "Petition for Name Change of Inventor under 37 CFR 1.182", filed with the United States Patent and Trademark Office (USPTO) on 19 May 2003, requesting that the application reflect joint inventor Chandra Patterson family name change to Chandra S. Arvizu. The $130 petition fee has been paid from applicants' deposit account. This is also responsive to applicant's "Certificate Under 37 CFR 3.73(b), Revocation of Power of Attorney and Appointment of New Attorneys" filed on 10 May 2004.

On 11 July 2002, applicants filed a transmittal letter requesting entry into the national stage in the United States, which was accompanied by, inter alia, the requisite basic national fee. Applicants also filed a communication indicating that Chandra Patterson married and changed her family name to Chandra Arvizu subsequent to the filing of the international application. However, as indicated in the decision mailed on 19 March 2004, applicants did not submit an affidavit signed by Chandra Patterson indicating the reason for the name change.

On 19 May 2003, applicants filed the instant renewed petition under 37 CFR 1.182 along with the statement of Chandra Patterson regarding her respective change of name. As explained in MPEP 605.04(c), applicants must provide a signed affidavit setting forth both names and the procedure whereby the change of name was effected, or a certified copy of the court order. Here, applicant submitted the statement of Chandra Patterson regarding her respective change of name. Applicant submitted her signed affidavit setting forth the procedure whereby the change of name was effected and identifying both names of applicant, Chandra Patterson and Chandra S. Arvizu. Thus, the evidence is sufficient to conclude that Chandra Patterson changed her name by marriage to Chandra S. Arvizu.

CONCLUSION

The petition under 37 CFR 1.182 to change the inventor's name Chandra Patterson to Chandra S. Arvizu is **GRANTED**. The revocation and appointment of new attorneys is accepted.

The declaration submitted on 11 July 2002 is acceptable as filed. The application will be forwarded to the United States Designated/Elected Office for further processing. The

appointment of new attorneys will be entered into the USPTO records. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **11 July 2002**.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: 571-272-3286

0 7 MAR 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

James H. Walters
Dellet and Walters
310 S.W. Fourth Avenue
Suite 1101
Portland, Oregon 97204

In re Application of	:	
KAMADA et al.	:	
U.S. Application No. 10/181,132	:	DECISION ON PETITION
PCT No.: PCT/JP01/00184	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 15 January 2001	:	
Priority Date: 13 January 2000	:	
Atty. Docket No.: Y-208	:	
For: INFORMATION HOME ELECTRIC APPLIANCE	:	

This is a decision on applicants' "Response to Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/Elected Office" which has been treated as a Petition under 37 CFR 1.47(a) filed 12 November 2002.

BACKGROUND

On 15 January 2001, applicants filed international application PCT/JP01/00184 which claimed a priority date of 13 January 2000 and designated the United States. A Demand for international preliminary examination was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States was midnight, 13 July 2002.

On 12 July 2002, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); the international application; and a preliminary amendment.

On 09 September 2002, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 11 October 2002, applicants filed the present papers which state, '[t]he second named inventor (Shun Tanaka) refuses to sign the declaration." This statement has been construed to be a petition under 37 CFR 1.47(a) as discussed below.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the non-signing joint inventor. Item (3) and (4) have been satisfied.

Regarding item (1), the required petition fee of $130.00 pursuant to 37 CFR 1.17(h) has not been submitted.

As to item (2), Section 409.03(d) of the Manual of Patent Examining Procedure (MPEP) states, in part:

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of its refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application paper should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which the conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

A review of the present petition reveals that applicants have not satisfied the item (2) above, in that the applicants have not shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Shun Tanaka. The Declaration of Ryusuke Narukawa states that, "Shun Tanaka is not willing to

sign any papers and he has no intention of making any objection to this matter in the future. Mr. Tanaka also made an express indication that the application papers should not be sent to him." Notwithstanding the indication from the inventor that the application papers should not be sent to him, Section 409.03 of the MPEP requires that before a refusal can be accepted it must be demonstrated that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature. Therefore, applicants have not provided an acceptable showing that a diligent effort was made to reach the non-signing inventor.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Shun Tanaka under 37 CFR 1.47(a) at this time.

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTH** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)" with the required petition fee of $130.00.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention to the PCT Legal Office.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel.: 703-308-6314
Facsimile: 703-308-6459

2 8 MAY 2003

#8

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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James H. Walters
Dellet and Walters
310 S.W. Fourth Avenue
Suite 1101
Portland, Oregon 97204

In re Application of	:	
KAMADA et al.	:	
U.S. Application No. 10/181,132	:	DECISION ON PETITION
PCT No.: PCT/JP01/00184	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 15 January 2001	:	
Priority Date: 13 January 2000	:	
Atty. Docket No.: Y-208	:	
For: INFORMATION HOME ELECTRIC APPLIANCE	:	

This decision is in response to "Renewed Petition under 37 CFR 1.47(a)" filed 07 May 2003. In a decision dated 07 March 2003, the "Petition under 37 CFR 1.47(a)" filed 12 November 2002 was dismissed because applicant did not provide adequate proof that joint inventor, Shun Tanaka, refused to execute the application or could not be reached after diligent effort.

The petition for status under 37 CFR 1.47(a) is moot since the declaration filed 07 May 2003 with the present communication was executed by the previously non-signing inventor, Shun Tanaka. As such, the submission is a proper reply to the Decision mailed 07 March 2003. The declarations filed 12 November 2002 and 07 May 2003 are acceptable under 37 CFR 1.497.

The application has an international filing date of 15 January 2001 under 35 U.S.C. 363 and a date of **07 May 2003** under 35 U.S.C. 371(c).

The application is being returned to the International Division for processing as the U.S. National Stage of the above-identified international application.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel.: 703-308-6314
Facsimile: 703-308-6459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:07182005

DATE : July 18, 2005

TO SPE OF : ART UNIT 1754

SUBJECT : Request for Certificate of Correction on Patent No.: 6,866,091 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 3-910
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: Stanley Silverman **Art Unit** 1754

PTO/SB/44 (04-04)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO : US 6,866,091 B2

DATED : March 15, 2005

INVENTOR(S) : Rainer AUTENRIETH

It is certified that error appears in the above-identified patent and that said Letters Patent are hereby corrected as shown below:

In column 2, line 66 please insert "a" after the word shows.
Column 2, line 66 should read "with reference to the drawing which shows a device according"

Please insert the following paragraph in column 4, after line 11:
Liquid fuel as defined herein may include pure liquid fuel or a pure liquid fuel/water mixture.

MAILING ADDRESS OF SENDER: Davidson, Davidson & Kappel, LLC
485 Seventh Avenue
New York, NY 10018

PATENT NO. 6,866,091 B2

No. of additional copies

5

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

JUN 1 5 2005

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PATENT & TRADEMARK OFFICE

Atty. Docket No.: 510.1043

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Examiner: Maribel MEDINA SANABRIA Group Art Unit: 1754

Re:	Application of:	Rainer AUTENRIETH
	Serial No.:	10/181,160
	Filed:	July 16, 2002
	For:	DEVICE FOR VAPORIZING AND/OR SUPERHEATING A COMBUSTIBLE

Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

June 2, 2005

REQUEST FOR CERTIFICATE OF CORRECTION UNDER 37 C.F.R. §1.322

Sir:

Patentees hereby submit and respectfully request entry of the enclosed Certificate of Correction under 37 C.F.R. §1.322.

In column 2, line 66 should read "with reference to the drawing which shows a device according" instead of "with reference to the drawing which shows device according".

Please insert the following paragraph in column 4, after line 11:

"Liquid fuel as defined herein may include pure liquid fuel or a pure liquid fuel/water mixture."

Applicants note that the amendments were effected via the preliminary amendment of July 16, 2002.

JUN 1 5 2005

No fees are deemed due. If any additional fees are deemed necessary in connection with this request the Assistant Commissioner is hereby authorized to charge payment of such fees to Deposit Account No. 50-0552. In such event the Examiner is requested to contact the undersigned at the telephone number provided below.

Respectfully submitted,
DAVIDSON, DAVIDSON & KAPPEL, LLC

By: _____
Cary S. Kappel, Reg. No. 36,561
(signing for William C. Gehris, Reg. No. 38,156)

Davidson, Davidson & Kappel, LLC
485 Seventh Avenue, 14th Floor
New York, New York 10018
(212) 736-1940

cofc

FORM PTO-1083

Docket No.: 510.1043
Date: June 2, 2005

Certificate of Correction Branch
COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

OIPE JC32 JUN 06 2005 PATENT & TRADEMARK OFFICE

In re application of: **Rainer AUTENRIETH**
Serial No.: 10/181,160
Filed: July 16, 2002 as national phase of International application PCT/EP00/13210 filed December 22, 2000
For: **DEVICE FOR VAPORIZING AND/OR SUPERHEATING A COMBUSTILE**

Sir:

Transmitted herewith is a **Request for Certificate of Correction (2 pages)** in the above-identified application.

[ ] Small entity status under 37 C.F.R. 1.9 and 1.27 has been previously established.
[ ] Applicants assert small entity status under 37 C.F.R. 1.9 and 1.27.
[X] No fee for additional claims is required.
[ ] A filing fee for additional claims calculated as shown below, is required:

FOR:	(Col. 1) REMAINING AFTER AMENDMENT	(Col. 2) HIGHEST PREVIOUSLY PAID FOR	PRESENT EXTRA	SMALL ENTITY RATE	SMALL ENTITY FEE	OR	LARGE ENTITY RATE	LARGE ENTITY FEE
TOTAL CLAIMS	* Minus	20 =	0	x $ 9	$		x $ 18	$
INDEP. CLAIMS	* Minus	3 =	0	x $ 43	$		x $ 86	$
[ ] FIRST PRESENTATION OF MULTIPLE DEP. CLAIM				+ $145	$		+ $290	$

TOTAL: $ OR TOTAL: $

* If the entry in Co. 1 is less than the entry in Col. 2, write "0" in Col. 3.
** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, write "20" in this space.
*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, write "3" in this space.

[X] Also transmitted herewith are:
[ ] Petition for extension under 37 C.F.R. 1.136
[X] Other: **Certificate of Correction (1 page)**

Certificate
JUN 14 2005
of Correction

[ ] Check(s) in the amount of **$0.00** is/are attached to cover:
[ ] Filing fee for additional claims under 37 C.F.R. 1.16
[ ] Petition fee for extension under 37 C.F.R. 1.136
[ ] Other:

[X] The Assistant Commissioner is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 50-0552.

[X] Any filing fee under 37 C.F.R. 1.16 for the presentation of additional claims which are not paid by check submitted herewith.
[X] Any patent application processing fees under 37 C.F.R. 1.17.
[X] Any petition fees for extension under 37 C.F.R. 1.136 which are not paid by check submitted herewith, and it is hereby requested that this be a petition for an automatic extension of time under 37 CFR 1.136.

Cary S. Kappel, Reg. No. 36,561
(signing for William C. Gehris, Reg. No. 38,156)
DAVIDSON, DAVIDSON & KAPPEL, LLC
485 Seventh Avenue, 14th Floor
New York, New York 10018
Tel: (212) 736-1940
Fax: (212) 736-2427

I hereby certify that the documents referred to as attached therein and/or fee are being deposited with the United States Postal Service as "first class mail" with sufficient postage in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" on June 2, 2005.
DAVIDSON, DAVIDSON & KAPPEL, LLC
BY: _____
Oliver Platz

JUN 15 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JORDAN AND HAMBURG LLP
122 EAST 42ND STREET
NEW YORK, NY 10168

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OCT 0 4 2006
OFFICE OF PETITIONS

In re Patent No. 6,827,565	:	
Issue Date: December 7, 2004	:	
Application No. 10/181,161	:	ON PETITION
Filed: September 25, 2002	:	
Attorney Docket No. F-7477	:	

This is a decision on the petition, filed November 17, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Frances Hicks
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No.

LEON R. YANKWICH
YANKWICH & ASSOCIATES
201 BROADWAY
CAMBRIDGE, MA 02139

COPY MAILED

OCT 02 2003

OFFICE OF PETITIONS

In re Application of
Denise L. Faustman et al
Application No. 10/181,167
Filed: July 16, 2002
Attorney Docket No. MGH-005.1P US

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 by facsimile transmission on September 26, 2003, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to the prior-filed nonprovisional and 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 application was filed on July 16, 2002, and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(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 applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed applications was submitted during the pendency of the instant nonprovisional application, 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 applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Karen Creasy at (703) 305-8859.

The examiner of Technology Center Art Unit 1632 will consider applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed nonprovisional and PCTapplications.

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
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

LEON R. YANKWICH
YANKWICH & ASSOCIATES
201 BROADWAY
CAMBRIDGE MA 02139

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SEP 17 2003

OFFICE OF PETITIONS

In re Application of Denise L. Faustman et al Application No. 09/181,167 Filed: July 16, 2002 Attorney Docket No. MGH-005.1P US	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 August 29, 2003, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of the prior-filed nonprovisional and PCT application set forth in the amendment filed August 29, 2003.

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;[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 application was filed on July 16, 2002 and was pending at the time of filing of the instant petition.

---

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS)) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

The reference to the prior-filed application was not included in the manner specified in 37 CFR 1.78(a)(2)(i) (i.e., in an ADS or in an amendment to the first sentence following the title of the specification) or filed within the period specified in 37 CFR 1.78(a)(2)(ii).

The instant petition does not comply with items (1) and (3) above.

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See Manual of Patent Examining Procedure, 8th ed., August 2001), Section 201.11, Reference to First Application. The amendment filed August 29, 2003 fails to state the relationship of PCT Application No. PCT/US01/01483, filed January 18, 2001 and nonprovisional Application No. 09/483,897, filed January 18, 2000, to the instant application.

Additionally, 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 is required.

For the above-noted reasons, the petition under 37 CFR 1.78(a)(3) cannot be granted.

In order to expedite consideration, petitioner may wish to submit the substitute amendment by facsimile transmission to the number indicated below and to the attention of Karen Creasy **.**

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Crystal Plaza Four, Suite 3C23
2201 South Clark Place
Arlington, VA 22202

By Fax: (703) 308-6916
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Karen Creasy at (703) 305-8859.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

2 3 OCT 2003

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OIPE JC176
OCT 2 3 2003
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Sughrue Mion, PLLC
2100 Pennsylvania Avenue, N.W.
Washington, D.C. 20037

In re Application of
BEVIS et al.
Application No.: 10/181,202
PCT No.: PCT/GB01/00153
Int. Filing Date: 15 January 2001
Priority Date: 28 January 2000
Attorney Docket No.: Q71295
For: TORIC LENS MANUFACTURE

DECISION

This decision is in response to "Petition under 37 CFR 1.47(a)" filed 16 April 2003.

The petition for status under 37 CFR 1.47(a) is moot since the declaration filed 02 June 2003 was executed by the named inventors, the previous non-signing inventors, Barrie Bevis and Michael James Kelly. The declaration filed 02 June 2003 is acceptable under 37 CFR 1.497.

For the reasons above, the petition under 37 CFR 1.47(a) is **DISMISSED** as moot. The application need not be returned to this Office for any further consideration of Rule 1.47 status and no such status should be indicated on this application file.

The application has an international filing date of 15 January 2001 under 35 U.S.C. 363 and a date of **02 June 2003** under 35 U.S.C. 371(c).

The application is being returned to the International Division for processing as the U.S. National Stage of the above-identified international application.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
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Fax: 703-308-6459

23 OCT 2003

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Sughrue Mion, PLLC
2100 Pennsylvania Avenue, N.W.
Washington, D.C. 20037

In re Application of
BEVIS et al.
Application No.: 10/181,202
PCT No.: PCT/GB01/00153
Int. Filing Date: 15 January 2001
Priority Date: 28 January 2000
Attorney Docket No.: Q71295
For: TORIC LENS MANUFACTURE

DECISION

This decision is in response to "Petition under 37 CFR 1.47(a)" filed 16 April 2003.

The petition for status under 37 CFR 1.47(a) is moot since the declaration filed 02 June 2003 was executed by the named inventors, the previous non-signing inventors, Barrie Bevis and Michael James Kelly. The declaration filed 02 June 2003 is acceptable under 37 CFR 1.497.

For the reasons above, the petition under 37 CFR 1.47(a) is **DISMISSED** as moot. The application need not be returned to this Office for any further consideration of Rule 1.47 status and no such status should be indicated on this application file.

The application has an international filing date of 15 January 2001 under 35 U.S.C. 363 and a date of **02 June 2003** under 35 U.S.C. 371(c).

The application is being returned to the International Division for processing as the U.S. National Stage of the above-identified international application.

Anthony Smith

Anthony Smith
Attorney-Advisor
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Tel.: 703-308-6314
Fax: 703-308-6459

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ARENT FOX PLLC
1050 CONNECTICUT AVENUE, N.W.
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WASHINGTON DC 20036

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OFFICE OF PETITIONS

In re Application of :
Varis : ON PETITION
Application No.: 10/181,215 :
Filed: November 11, 2002 :
Attorney Docket No.: 108206-00012 :
For: MOTOR UNIT FOR A SHIP

This is a decision on the petition under 37 CFR 1.181, filed March 29, 2006, 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 non-final Office action, mailed on August 15, 2005, that required reply within an extendable three (3) month period from the mail date of the Office action. No extensions of time being obtained and no reply being filed, the application became abandoned on November 16, 2005. A Notice of Abandonment was mailed on March 21, 2006.

Petitioner asserts that a proper response was in fact timely received in the Office on November 15, 2005. In support, petitioner submitted a copy of his itemized, return receipt postcard dated stamped November 15, 2005 by the Office and a copy of the correspondence listed on the postcard – a response to the final rejection under 37 CFR 1.121.

The return postcard constitutes *prima facie* evidence that the item listed thereon was filed on November 15, 2005. MPEP 503. The postcard lists application number 10/181,215.

A review of the copy of the November 15, 2005 amendment reveals that applicant listed an incorrect application number in the header. Applicant typed: "Application Number: 11/181,215." (Emphasis added).

In addition, it is noted that the instant petition lists the same incorrect application number.

A review of the file contents of application no. 11/181,215 reveals that both the November 15, 2005 amendment and the instant petition are present.

Even though petitioner cited the wrong application number, under MPEP 502, " A minor error in the identification of the application can be corrected by the Office 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 November 15, 2005 correspondence with this application file. A cross-referencing of any of the accurate identifiers found on the amendment with Office database records would have revealed the typographical error.

Therefore, the response to the August 15, 2005 non-final Office action was timely filed.

Accordingly, the petition is **GRANTED**, the Notice of Abandonment is hereby vacated, and the holding of abandonment withdrawn.

No petition fee has been or will be charged in connection with this matter.

After the mailing of this decision, the application file will be forwarded to Technology Center AU 3617 for consideration of the amendment filed on November 15, 2005.

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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SCHWEGMAN, LUNDBERG & WOESSNER, PA
P.O. BOX 2938
MINNEAPOLIS, MN 55402

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OFFICE OF PETITIONS

In re Application of	:	
Vassilios Papadopoulos, et al.	:	
Application No. 10/181,255	:	DECISION ON PETITION
Filed: February 13, 2003	:	TO WITHDRAW
Attorney Docket No. 1941.020US1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 15, 2009 and July 29, 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 Monique M. Perdok Shonka on behalf of all attorneys of record who are associated with customer No. 21186. All attorneys/agents associated with the Customer Number 21186 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a

chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There is an outstanding Office action mailed May 28, 2009 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: VASSILIOS PAPADOPOULOS
15417 PEACH LEAF DRIVE
NORTH POTOMAC, MD 20878

cc: GEORGETOWN UNIVERSITY
3900 RESERVOIR ROAD, NW
WASHINGTON, DC 20007

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/181,255	02/13/2003	Vassilios Papadopoulos	1941.020US1

CONFIRMATION NO. 8124

POWER OF ATTORNEY NOTICE

21186
SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

OC000000037525763

Date Mailed: 08/26/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/15/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

02 JUN 2005

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John Moetteli
c/o BUGNION, S.A.
10, route de Florissant
Case postale 375
1211 GENEVA 12
SWITZERLAND

In re Application of	:	
HAHN, et al.	:	
U.S. Application No.: 10/181,237	:	DECISION ON PETITION
PCT No.: PCT/CH01/00052	:	
Int. Filing Date: 24 January 2001	:	UNDER 37 CFR 1.182
Priority Date: 26 January 2000	:	
Attorney's Docket No.: 1.G164.197	:	
For: DEVICE AND METHOD FOR DETECTING PAPER SHEETS	:	

This decision is in response to applicant's "Response to Notification of Defective Response" filed 11 June 2003 in the United States Patent and Trademark Office (USPTO). The response is being treated as a petition under 37 CFR 1.182 to change the name of the first listed inventor. As authorized, the $130.00 petition fee will be deducted from Deposit Account No.: 50-0800.

BACKGROUND

On 24 January 2001, applicant filed international application PCT/CH01/00052. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 05 April 2001. The thirty-month period for paying the basic national fee in the United States expired at midnight on 26 July 2002.

On 09 July 2002, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an English translation of the international application and a first preliminary amendment.

On 16 September 2002, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to file an executed oath or declaration of the inventors. Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 17 January 2003, applicant filed a response including an executed combined

declaration and power of attorney and petition for extension of time.

On 15 May 2003, applicant was mailed a NOTIFICATION OF DEFECTIVE RESPONSE informing applicant that the filed declaration was not in compliance with 37 CFR 1.497(a) and (b) in that the name of the first listed inventor was not the same on the declaration as on the published international application.

On 11 June 2003, applicant filed the present petition.

DISCUSSION

Section 605.04(c) of the Manual of Patent Examining Procedure (MPEP) explains that in instances where an inventor has changed his name after an application is filed, a petition under 37 CFR 1.182 is required. Specifically:

The petition must include an appropriate petition fee and an affidavit signed with both names and setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

The present petition is accompanied by a copy of the stamped marriage certificate signed by the mayor. The marriage certificate lists the chosen marriage name as "Hahn." As such, it is appropriate to grant applicant's petition at this time. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have now been satisfied. Applicant is advised that the 37 CFR 1.182 petition fee on 11 June 2003 was $130.00. This amount will be charged to Deposit Account No.: 50-0800.

CONCLUSION

Applicant's petition under 37 CFR 1.182 to change the inventor's name from Thilo Fritsche to Thilo Hahn is **GRANTED**.

The application has an international filing date of 24 January 2001 under 35 U.S.C. 363 and will be given a date of **17 January 2003** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being forwarded to the U.S. Designated/Elected Office for continued national stage processing.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: 571-272-3294
Fax: 571-273-0459

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30 SEP 2003

David J. Simonelli
Clark Hill PLC
500 Woodward Avenue
Suite 3500
Detroit, MI 48226-3435

In re Application of WARD, Lance M., et al. Application No.: 10/181,260 PCT No.: PCT/US01/01449 Int. Filing Date: 16 January 2001 Priority Date: 14 January 2000 Attorney Docket No.: 19978-089122 For: METHOD FOR ELIMINATING DETONATION IN AN ENGINE	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicants' "Renewed Petition Under 37 CFR §1.47(a)," filed in the United States Patent and Trademark Office (USPTO) on 28 August 2003.

BACKGROUND

On 16 January 2001, applicants filed international application PCT/US01/01449, which claimed a priority date of 14 January 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 14 August 2001, within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 15 July 2002 (14 July 2002 was a Sunday).

On 12 July 2002, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 24 September 2002, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 24 January 2003, applicants submitted a petition under 37 CFR 1.47, which was accompanied by, *inter alia*, a petition for a two-month extension of time; a declaration executed by one of two inventors; and a statement of facts.

On 24 July 2003, the Office mailed Decision On Petition Under 37 CFR 1.47(a), dismissing applicants' petition without prejudice.

On 28 August 2003, applicants submitted a renewed petition, accompanied by an executed declaration.

DISCUSSION

Applicants have submitted an executed declaration in compliance with 37 CFR 1.497(a)-(b). The petition under 37 CFR 1.47(a) is moot.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED AS MOOT**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including accordation of a 35 U.S.C. date of **28 August 2003**

Leonard E. Smith
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

24 JUL 2003

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David J. Simonelli
Clark Hill
500 Woodward Avenue
Suite 3500
Detroit, MI 48226-3435

In re Application of WARD, Lance M., et al. Application No.: 10/181,260 PCT No.: PCT/US01/01449 Int. Filing Date: 16 January 2001 Priority Date: 14 January 2000 Attorney Docket No.: 19978-089122 For: METHOD FOR ELIMINATING DETONATION IN AN ENGINE	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicants' "Petition Under 37 CFR §1.47(b)," filed in the United States Patent and Trademark Office (USPTO) on 24 January 2003. It has been treated as a petition under 37 CFR 1.47(a).

BACKGROUND

On 16 January 2001, applicants filed international application PCT/US01/01449, which claimed a priority date of 14 January 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 14 August 2001, within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 15 July 2002 (14 July 2002 was a Sunday).

On 12 July 2002, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 24 September 2002, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 24 January 2003, applicants submitted the instant petition under 37 CFR 1.47, which was accompanied by, *inter alia*, a petition for a two-month extension of time; a declaration executed by one of two inventors; and a statement of facts

DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the nonsigning applicant

Items (1), (3) and (4) have been met. The petition fee has been paid. The petition states the last known address of Mr. John D. Meaney as 4352 Fenton Road, Hartland, MI 48029. The declaration complies with 37 CFR 1.497(a)-(b).

Item (2) has not been met. Applicants must demonstrate that the inventor has refused to sign the declaration after presentation with the declaration and a full copy of the application papers. In the paragraph 6 of the petition, applicants state that Mr. Meaney executed a declaration and power of attorney. It is unclear why this declaration has not been submitted.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

07/28/2003 MKAYPAGH 00000001 10181260
02 FC:1460 130.00 OP

07/28/2003 MKAYPAGH 00000001 10181260
03 FC:2617 65.00 OP

07/28/2003 MKAYPAGH 00000001 10181260
01 FC:2252 205.00 OP

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Paper No. 6

PILLSBURY WINTHROP LLP
P O BOX 10500
McLEAN, VA 22102

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OFFICE OF PETITIONS

In re Application of	:
Gary D. Lopaschuk et al	:
Application No. 10/181,274	: DECISION DISMISSING
Filed: April 9, 2003	: PETITION UNDER 37
Attorney Docket No. 098810-0290015	: CFR 1.137(b)

This is a decision on the petition, filed June 9, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **DISMISSED** as moot.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on April 1, 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.

A review of the file record discloses that a Nonpublication Request under 35 U.S.C. 122(b)(2)(B)(i) was filed on July 11, 2002. A further review of the file record discloses that this application was filed under the provisions of 35 U.S.C. 371 and received in the USPTO on July 11, 2002.

The nonpublication request was untimely filed as it was not filed upon filing of the application. In this regard, the filing date of either an international or national stage application is the same. Thus, the filing date of the national stage is the international filing date--not the date of receipt of the 35 U.S.C. 371 papers in the USPTO. *Note* 1893.03(b). Petitioner is further advised that the filing of the nonpublication request in the instant case was improper and should not have been filed since this application is the national stage of an international application.

In view of the above, the petition is dismissed as involving a moot issue. As such, no petition fee has been assessed to petitioner's deposit account.

The application file is being forwarded to Technology Center AU 1633 for examination in due course.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy
(703) 305-8680

17 MAR 2004

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#9

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Steven J. Hultquist
Intellectual Property/Technology Law
P.O. Box 14329
Research Triangle Park, NC 27709

In re Application of :
CHOI, Ingrid *et al* :
Application No.: 10/181,305 :
PCT No.: PCT/DE01/00130 :
Int. Filing Date: 10 January 2001 : **DECISION**
Priority Date: 14 January 2000 :
Attorney Docket No.: 4121-143 :
For: ANTI-CD3 SINGLE-CHAIN :
ANTIBODIES HAVING HUMAN . . . :

This decision is in response to applicants' "Petition for Revival of an Application for Patent Abandoned Unavoidably Under 37 CFR 1.137(a)" filed 05 March 2004.

BACKGROUND

On 16 September 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a sequence listing, a surcharge fee and an oath or declaration in compliance with 37 CFR 1.497(a) and (b) was required. A two-month time period for response was set with extensions of time available.

On 10 February 2003, applicants submitted a response to the Form PCT/DO/EO/905 which included, *inter alia*, an executed declaration in compliance with 37 CFR 1.497(a) and (b), a $65.00 surcharge fee and a three-month extension and fee.

On 02 May 2003, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that the sequence listing in a computer readable form (CRF) must be provided. A one-month time period for response was set.

On 14 May 2003, applicants filed a document titled "Response to May 2, 2003 Notification of Defective Response in U.S. Patent Application No. 10/181,305" which was accompanied *by, inter* alia, a CRF of the sequence listing and a "Statement of Identity Under 37 C.F.R. §1.821(f)."

On 01 March 2004, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating that the above-captioned application was abandoned because applicants failed to properly respond to the Form PCT/DO/EO/916 mailed on 02 May 2003. A copy of a CRF Problem Report was included which said that the

diskette filed 14 May 2003 did not contain a sequence listing.

On 05 March 2004, applicants filed the instant petition under 37 CFR 1.137(a) which was accompanied by, *inter alia*, Appendices A - C.

DISCUSSION

A petition to revive an abandoned application pursuant to 37 CFR 1.137(a) must be accompanied by: (1) the required reply; (2) 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; (3) any terminal disclaimer required pursuant to 37 CFR 1.137(c); and (4) the petition fee.

In the instant response, applicants included the $55.00 petition fee and a new CRF sequence listing diskette. Applicants request that the petition be revived pursuant to 37 CFR 1.137(a) because the abandonment was unavoidable. Applicants explain that they responded to the Form PCT/DO/EO/916 mailed 02 May 2003 with a CRF sequence listing diskette filed 14 May 2003. Counsel states that the diskette must have been damaged during transport or during processing at the USPTO. Moreover, counsel requests that "they not be penalized for a damaged disk" and request that this instant petition under 37 CFR 1.137(a) be granted. Counsel claims that they would have immediately responded if they had been notified that the diskette was damaged.

An investigation of this incident with the Scientific and Technical Information Center at the USPTO verifies that the diskette filed 14 May 2003 in response to the Form PCT/DO/EO/916 mailed 02 May 2003 was received in the above-captioned application. However, this diskette was not damaged. Instead, applicants submitted the sequence listing in the diskette in a PatentIn project file that has a .prj extension. This is not acceptable. Applicants should have submitted the diskette in an American Standard Code for Information Interchange (ASCII) text file with a .ST25.txt extension. Both files are created by PatentIn when the PatentIn project is saved.

For a grantable petition under 37 CFR 1.137(a), applicants must demonstrate how this failure to properly respond to the Form PCT/DO/EO/916 mailed 02 May 2003 meets the unavoidable standard of 37 CFR 1.137(a). *See* MPEP § 711.03(c). It is also noted that applicants may also wish to consider filing a petition under 37 CFR 1.137(b) requesting that the application be revived under the unintentional standard.

CONCLUSION

For the reason discussed above, applicants' petition for revival pursuant to 37 CFR 1.137(a) is **DISMISSED** without prejudice.

The application remains **ABANDONED**.

Any renewed petition under 37 CFR 1.137(a) or petition to revive under 37 CFR 1.137(b) must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

29 APR 2004

#11

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Steven J. Hultquist
Intellectual Property/Technology Law
P.O. Box 14329
Research Triangle Park, NC 27709

In re Application of :
CHOI, Ingrid *et al* :
Application No.: 10/181,305 :
PCT No.: PCT/DE01/00130 :
Int. Filing Date: 10 January 2001 : **DECISION**
Priority Date: 14 January 2000 :
Attorney Docket No.: 4121-143 :
For: ANTI-CD3 SINGLE-CHAIN :
ANTIBODIES HAVING HUMAN . . . :

This decision is in response to the papers filed 23 March 2004 which have been treated as a renewed petition under 37 CFR 1.137(a) and only if dismissed, a petition under 37 CFR 1.137(b).

BACKGROUND

On 17 March 2004, a decision dismissing applicants' petition under 37 CFR 1.137(a) was mailed. The sequence listing diskette filed 14 May 2003 was filed in the wrong format and applicants failed to show how this error meets the unavoidable standard of 37 CFR 1.137(a). Applicants were given two months to respond.

On 05 March 2004, applicants filed a renewed petition under 37 CFR 1.137(a) and alternatively, a petition under 37 CFR 1.137(b) along with several other documents.

DISCUSSION

Applicants request reconsideration of the decision dated 17 March 2004 dismissing applicants' petition under 37 CFR 1.137(a). In the event this petition is not granted, applicants' request to file a petition to revive under 37 CFR 1.137(b).

Renewed Petition Under 37 CFR 1.137(a)

In the renewed petition under 37 CFR 1.137(a), applicants argue:

(1) The CRF Problem report provided with the Notification of Abandonment (Form PCT/DO/EO/909) did not indicate the specific problem of lack of ASCII file on the disk. Instead the CRF Problem Report records only that the disk did not contain a sequence listing.

(2) The diskette may have been damaged by the USPTO, and

(3) The abandonment was not proper; a notice should have been sent pursuant to § 2421.03 MPEP.

Applicants also request that an electronic file of the disk be forwarded to applicants for inspection and verification.

Proper Box Not Checked on CRF Problem Report

Applicants claim that the CRF Problem Report did not indicate that the sequence listing filed 14 May 2003 was not saved in ASCII format. A review of the CRF Problem Report shows that the box checked was "Did Not Contain a Sequence Listing." Upon further review by the Scientific and Technical Information Center (STIC), it was determined that the sequence listing filed 14 May 2003 was not saved in ASCII format.

Regardless, the sequence listing was processed and shown to be defective. A copy of the defective sequence listing was sent to applicants electronically by the STIC on 19 April 2004 as requested, verifying to applicants the defect.

Disk Damaged by USPTO

A check with the STIC reveals that the disk submitted 14 May 2003 was <u>not</u> damaged as suggested by applicants. A copy of the defective sequence listing received was forwarded electronically to applicants on 19 April 2004 by the STIC.

Additional Notice Should Have Been Sent

Applicants question "the premature abandonment of this application due to a defect or damage of the disk" and argue that section 2421.03 of the Manual of Patent Examining Procedure (MPEP) should have provided applicants a period to respond to the defect in the disk.

2421.03 *Notification of a Failure to Comply*, states, in part:

> Upon detection of damage or a deficiency, a notice will be sent to the applicant detailing the damage or deficiency and setting at least a 30-day period for reply. The period for reply will usually be 2 months when sent during the preexamination processing of an application. However, if the notice is sent out with an Office communication having a longer period for reply, the period for reply may be longer than 2 months, e.g., where the notice is sent with an Office action on the merits setting a 3-month period for reply. Extensions of time in which to reply will be available pursuant to 37 CFR 1.136. When an action by the applicant, such as a reply to a Notice to Comply from the Office, is

determined to be a bona fide attempt to comply with the rules and it is apparent that compliance with some requirement has inadvertently been omitted, the applicant may be given a new time period to correct the omission. See 37 CFR 1.135(c).

Petitioners' argument has been considered and dismissed.

The Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) mailed 16 September 2002 provided notice to applicants that a CRF sequence listing diskette complying with the requirements of 37 CFR 1.821 - 1.825 was required (along with a declaration and surcharge fee). Applicants were given two-months to respond to the Form PCT/DO/EO/905 with extensions of time up to five months pursuant to 37 CFR 1.136(a).

Applicants submitted a response on 10 February 2003 which did not include a CRF sequence listing diskette. Then, the DO/EO/US mailed a Notification of a Defective Response (Form PCT/DO/EO/916) providing applicants an additional month to respond with a CRF sequence listing diskette complying with the requirements of 37 CFR 1.821 - 1.825 on 02 May 2004. Petitioners responded with a CRF sequence listing diskette that failed to meet these requirements on 14 May 2003.

The requirements of section 2421.03 have been met. Applicants failed to provide a CRF sequence listing diskette with their first response. The diskette may have inadvertently omitted the diskette. Nonetheless, applicants were then given another period to respond. However, this response was not proper since the diskette was defective. No further period to reply is warranted.

CONCLUSION

For the reasons listed above, applicants' petition under 37 CFR 1.137(a) is **DISMISSED** without prejudice.

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; (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional; and (4) any terminal disclaimer required.

A CRF sequence listing diskette in compliance with the requirements of 37 CFR 1.821 - 1.825 was previously submitted on 05 March 2004. The statement that the "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR

1.137(b)(3) was provided. The petition fee of $665.00 has been paid. No terminal disclaimer is required.

Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

CONCLUSION

Applicants' petition under 37 CFR 1.137(b) is **GRANTED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 10 January 2001, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 10 February 2003.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:07232004

DATE : June 21, 2005

TO SPE OF : ART UNIT 3747

SUBJECT : Request for Certificate of Correction on Patent No.: 6,816,775

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 changes correspond to those made in the July 15, 2002 substitute specification, which was approved for entry, but not used in printing of the patent.

Henry C. Yuen
Supervisory Patent Examiner
Group 3700

SPE: Henry Yuen **Art Unit** 3747

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Commissioner for Patents
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Paper No.

MARSHALL, GERSTEIN & BORUN
6300 SEARS TOWER
233 SOUTH WACKER DRIVE
CHICAGO, IL 60606-6357

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SEP 24 2004

OFFICE OF PETITIONS

In re Application of :
Bennett et al. :
Application No. 10/181,316 : DECISION ON PETITION
PCT No.: PCT/US01/02939 :
Filed: January 30, 2001 :
Attorney Docket Number: :
ISPH-0650 :

This is a decision on the petition under 37 CFR 1.78(a), filed December 23, 2003, to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of priority to prior-filed nonprovisional application Serial Nos. 09/286,407 and 09/163,162.

The petition is **DISMISSED**.

Any further petition to revive the above-identified application must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 CFR 1.78." This is not a final agency action within the meaning of 5 U.S.C. § 704.

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 nonprovisional application is a national stage entry of PCT/US01/02939, filed January 30, 2001. The instant application was pending at the time of the filing of this petition. A reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii). This amendment was filed with this petition on December 23, 2003. The petition includes a check in the amount of $1,300 for payment of the surcharge under § 1.17(t). As the surcharge in effect on the date of filing of this petition was $1330, the deficiency of $30 has been charged to Deposit Account No. 13-2855, as authorized. Petitioner states that the entire delay from the March 2, 2001 filing of the present application to the filing of the instant petition and claim for priority was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed application was submitted during the pendency of the instant nonprovisional application. *See* 35 U.S.C. § 120.

However, the reference submitted is not proper. Section 1.78(a)(2)(i) provides that:

> Except for a continued prosecution application filed under § 1.53(d), any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications or international applications designating the United States of America must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date and indicating the relationship of the applications.

The reference submitted fails to indicate the relationship between application No. 09/496,694 and the instant application as required.

Moreover, the claim for the benefit of priority to prior-filed nonprovisional application No. 09/286,407 is improper. Section 1.78(a)(1) provides that:

> A nonprovisional application or international application designating the United States of America may claim an invention disclosed in one or more prior-filed copending nonprovisional applications or international applications designating the United States of America.

However, a review of this claim reveals that there is no copendency between PCT/US01/02939 and application No. 09/286,407. The prior-filed application was filed on April 5, 1999, and issued on December 26, 2000. Whereas, the international application was not filed until January 30, 2001.

Further correspondence with respect to this decision should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306

By hand: patent correspondence delivered by hand or delivery services, **other than the USPS**, to the Customer Window must be addressed as follows:

U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop _____
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries related to this decision may be directed to the Senior Petitions Attorney, Nancy Johnson at (703) 305-0309 (or effective September 28, 2004 at (571) 272-3219).

Charles A. Pearson
Director
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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ANDERSON, KILL & OLICK, P.C.
1251 AVENUE OF THE
AMERICAS
NEW YORK, NY 10020-1182

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OFFICE OF PETITIONS

In re Application of

Morinaga, et al. :

Application No. 10/181,318

: DECISION ON PETITION

Filed: July 16, 2002

:

Attorney Docket No. MM4545PCT

This is a decision on the petition under 37 CFR 1.137(b), filed July 17, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to file a proper reply in a timely manner to the final Office action mailed December 8, 2005, which set a shortened statutory period for reply of three (3) months from its mailing date. A response was filed on May 11, 2006. An Advisory Action mailed June 9, 2006, advised petitioner that the response of May 11, 2006, failed to place the application in condition for allowance. No further responses were filed within the allowable period. The application became abandoned on May 9, 2006.

The Request for Continued Examination filed July 17, 2006, is noted and made of record

The application is being forwarded to Technology Center 1700, GAU 1742 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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William D Lee Jr
McNair Law Firm
Suite 203
501 East Mcbee Avenue
Greenville SC 29601

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OFFICE OF PETITIONS

In re Application of :
John A. HAMILTON :
Application No. 10/181,322 : ON PETITION
Filed: August 12, 2002 :
Attorney Docket No. JAK19 032428.00011 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 28, 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 July 13, 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 October 14, 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 non-final Office action of July 13, 2004 is accepted as having been unintentionally delayed.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the office will mail all future correspondence solely to the address of record

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7099.

Application No. 10/181,322

The application file is being referred to Technology Center AU 3743 for appropriate action on the concurrently filed amendment.

David Bucci
Petitions Examiner
Office of Petitions

Cc: William D. Lee, Jr.
P.O. Box 10827
Greenville, SC 29603-0827

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MOTOROLA, INC.
1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG IL 60196

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SEP 15 2006

OFFICE OF PETITIONS

In re Application of	:	
Fenton et al.	:	
Application No. 10/181,339	:	DECISION ON PETITION
Filed: 7 October, 2002	:	
Atty Docket No. CM00696P	:	

This is a decision on the petition filed on 24 April, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 19 May, 2005, for failure to timely reply to the Notice of Non-Compliant Amendment (37 CFR

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

1.121) which set a one (1) month period for reply. Notice of Abandonment was mailed on 16 December, 2005.

Petitioners have submitted an amendment as the reply.

This application is being referred to Technology Center Art Unit 2683 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

3 JAN 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

#3

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Dowell & Dowell, P.C.
1215 Jefferson Davis Hwy., Suite 309
Arlington, VA 22202-3124

In re Application of	:	
Johnson	:	
Application No. 10/181,356	:	DECISION ON
PCT No.: PCT/CA98/00959	:	
Int. Filing Date: 14 October 1998	:	PETITION UNDER
Priority Date: 14 October 1997	:	
Atty. Docket No.: 13986	:	37 CFR 1.137(b)
For: Key Validation Scheme	:	

This is in response to the petition under 37 CFR 1.137(b) filed on 17 July 2002.

BACKGROUND

This international application was filed on 14 October 1998 and claimed earliest priority of an application filed on 14 October 1997. The International Bureau transmitted a copy of the international application to the USPTO on 22 April 1999. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 14 April 2000. This international application became abandoned with respect to the United States for failure to timely pay the required basic national fee.

On 17 July 2002, applicants filed the instant petition.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Regarding requirement (1), the required reply in the form of the basic national fee accompanied the petition.

Regarding requirement (2), the petition fee accompanied the petition.

Regarding requirement (3), the petition includes a statement that "the entire delay in filing the required papers and fees for entering the National Stage from the day, April 14,

2000, was unintentional." The attached "Declaration As To Unintentional Abandonment" signed by John R.S. Orange indicates in part that "I therefore believe that the abandonment in the United States of PCT Application CA98/00959 was unintentional. Furthermore, I believe that the entire delay in filing the required papers and fees for entering the National Stage from the due day until the filing of a petition under 37 CFR 1.137(b) was unintentional." These statements are being construed as a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement in the petition is not correct. Thus, the statement in the petition is being accepted in satisfaction of 37 CFR 1.137(b)(3).

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch for further processing. The date of this application under 35 U.S.C. 371 is **17 July 2002**.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459

16 DEC 2002
UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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John H. Allie
WOODARD, EMHARTDT, NAUGHTON,
MORIARTY & McNETT
111 Monument Circle, Suite 3700
Indianapolis, IN 46204-5137

In re Application of	:	
DOBRETSOV *et al*	:	
U.S. Application No.: 10/181,365	:	**DECISION**
PCT No.: PCT/GB01/00167	:	
Int. Filing Date: 17 January 2001	:	**UNDER**
Priority Date: 18 January 2000	:	
Attorney Docket No.: 27038-2	:	**37 CFR 1.42**
For: LIPOPROTEIN ASSAY	:	

This decision is in response to declaration submitted on 23 October 2002 which has been treated as a petition under 37 CFR 1.42. No fee is required.

BACKGROUND

On 13 September 2002, a Notification of Missing Requirements was mailed indicating that a declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee of $65.00 was required. A two-month time limit was set for response.

On 23 October 2002, applicants filed a declaration signed by six of the seven listed joint inventors and Olga Polyannikova for deceased co-inventor, Mikhail Nikolaevich Yakimenko and the surcharge fee of $65.00.

DISCUSSION

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

Applicants have furnished a declaration signed by Olga Polyannikova who is listed on the international publication as heiress of the deceased inventor, Mikhail Nikolaevich Yakimenko. The citizenship of the deceased inventor is listed pursuant to 37 CFR 1.497(a)(3). In addition, the citizenship and residence of the heiress are recorded on the declaration.

It is noted that the submission of the declaration executed by the sole heir of the

deceased inventor is hereby construed as an indication that no legal representative of the deceased's estate has been appointed and that no legal representative is required by the applicable law to be appointed. If this interpretation is incorrect, applicants are required to promptly notify the Office of such and to submit a declaration properly executed by the legal representative of the deceased inventor in response to this decision.

Accordingly, the declaration submitted complies with 37 CFR 1.497(a) and (b).

CONCLUSION

The papers filed under 37 CFR 1.42 are **ACCEPTED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. § 371(c). The application has an international filing date of 17 January 2001, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of **23 October 2002**.

This application is being forwarded to the United States Designated/Elected Office for further processing in accordance with this decision.

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7-29-08

TO SPE OF : ART UNIT 2134

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/181372 Patent No.: 7356698

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please check claims

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

C Wang

Certificates of Correction Branch

703-308-9390 ext. 117

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- [X] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: Approved All Changes.

/KAMBIZ ZAND/ — SPE

2434 — Art Unit

30 SEP 2

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

David O. Seeley
Workman, Nydegger & Seeley
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

In re Application of HEISE	:	
U.S. Application No.: 10/181,398	:	DECISION
Int. Application No.: PCT/EP01/00021	:	
Int. Filing Date: 03 January 2001	:	
Priority Date: 14 January 2000	:	
Attorney Docket No.: 15201.9	:	
For: DATA TRANSMISSION DEVICE	:	

This application is before the PCT Legal Office for consideration of issues arising under 35 U.S.C. 371.

BACKGROUND

On 03 January 2001, applicant filed international application PCT/EP01/00021, which claimed priority of an earlier Germany application filed 14 January 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 19 July 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 27 July 2001, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 15 July 2002 (14 July 2002 was a Sunday).

On 10 July 2002, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US) via the Express Mail Post Office to Addressee service of the USPS ("Express Mail"). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 16 September 2002, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned for failure to timely file the requisite basic national fee.

DISCUSSION

USPTO records confirm that the national stage papers were filed on 10 July 2002. Accordingly, the Notification of Abandonment was mailed in error.

CONCLUSION

For the reasons above, the Notification of Abandonment (Form PCT/DO/EO/909) mailed 16 September 2002 is hereby VACATED.

This application is being returned to the DO/EO/US for further processing in accordance with this decision including: 1) according the national stage papers an original filing date of 10 July 2002, 2) mailing a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed, and 3) mailing a Notice of Defective Translation (Form PCT/DO/EO/913) indicating that the purported translation filed 10 July 2002 is improper because it does not contain a translation of the drawings.[1]

Please direct further correspondence with respect to this matter to the Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the PCT Legal Office.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

[1] See MPEP 1893.01(b)(1), "Submissions Required by 30 Months From the Priority Date", which states in relevant part, "Similarly, the translation must be a translation of the international application. A translation of less than all of the international application (e.g., untranslated words in the drawings or translations of those untranslated words in a different part of the document) or a translation that includes modifications, e.g., the insertion of headings, is unacceptable.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents, Box PCT
United States Patent and Trademark Office
Washington, D.C. 20231
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U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/181,398	Bernd Heise	15201.9

INTERNATIONAL APPLICATION NO.
PCT/EP01/00021

I.A. FILING DATE	PRIORITY DATE
01/03/2001	

David O Seeley
Workman Nydegger & Seeley
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

CONFIRMATION NO. 2578

371 ABANDONMENT/TERMINATION LETTER

OC000000008794500

Date Mailed: 09/16/2002

NOTIFICATION OF ABANDONMENT

The United States Patent and Trademark Office in its capacity as an Elected Office (37 CFR 1.495), has made the following determination:

- Applicant has failed to provide the full U.S. Basic National Fee by 30 months (37 CFR 1.495(b)(2)).

Therefore, the above identified application failed to meet the requirements of 35 U.S.C. 371 and 37 CFR 1.495, and is ABANDONED AS TO THE UNITED STATES OF AMERICA.

ANITA D JOHNSON

Telephone: (703) 305-3661

PART 3 - OFFICE COPY

FORM PCT/DO/EO/909 (371 Abandonment Notice)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PFIZER INC.
PATENT DEPARTMENT, MS8260-1611
EASTERN POINT ROAD
GROTON, CT 06340

COPY MAILED
JUN 15 2006
OFFICE OF PETITIONS

In re Application of
Anthony Marfat et al. :
Application No. 10/181,416 : ON PETITION
Filed: July 24, 2002 :
Attorney Docket Number: PC10657ARTR :

This is a decision on the petition under 37 CFR 1.137(b)[1], filed March 30, 2006, to revive the above identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)".This is **not** a final agency decision.

This application became abandoned October 1, 005 for failure to file a timely response to the non-Final Office Action mailed March 30, 2005. The instant petition and this decision precede the mailing of the Notice of Abandonment.

Pursuant to 37 CFR 1.137(b) however, the instant petition lacks item (2) of the regulation.

---

[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)).

The petition notes the required fee of $1500, however no petition fee was included with the petition. In the absence of an authorization to charge a deposit account, the petition is not grantable.

The application will therefore remain in an abandoned status until such time as the petition fee has been paid.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571) 273-8300

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

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

PFIZER INC.
PATENT DEPARTMENT, MS8260-1611
EASTERN POINT ROAD
GROTON, CT 06340

COPY MAILED
OCT 2 6 2006
OFFICE OF PETITIONS

In re Application of
Anthony Marfat et al.
Application No. 10/181,416
Filed: July 24, 2002
Attorney Docket Number: PC10657ARTR

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b)[1], filed August 17, 2006, to revive the above identified application.

The petition is **GRANTED**.

This application became abandoned October 1, 2005 for failure to file a timely response to the non-Final Office Action mailed June 30, 2005. Prior to the mailing of the Notice of Abandonment, a petition to revive was filed on March 30, 2006 but was dismissed in a decision mailed June 15, 2006 because the petition was not accompanied by the required petition fee. The Notice of Abandonment was subsequently mailed on July 11, 2006.

Comes now petitioner with the petition fee in the amount of $1500.00. The response to the non-Final Office Action in the form of an amendment was filed March 30, 2006.

All requirements having been met for revival, this matter is being referred to Technology Center 1626 for treatment of the amendment as appropriate.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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PFIZER INC.
PATENT DEPARTMENT, MS8260-1611
EASTERN POINT ROAD
GROTON CT 06340

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MAR 06 2008

OFFICE OF PETITIONS

In re Application of :
MARFAT, et al. :
Application No. 10/181,416 : DECISION ON PETITION
Filed: July 24, 2002 :
Attorney Docket No. **PC10657ARTR** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 6, 2007, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely pay the issue and publication fees on or before February 6, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed November 6, 2006. Accordingly, the date of abandonment of this application is February 7, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1400 and the publication fee of $300, (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

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 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 Monica A. Graves at (571) 272-7253.

This application is being referred to the Office of Data Management for processing into a patent.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

CC: **PHARAMACIA CORPORATION OF PFIZER, INC.**
PATENT DEPARTMENT
P.O. BOX 1027
ST. LOUIS, MO 63006

UNITED STATES 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

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MAR 0 5 2004

OFFICE OF PETITIONS

In re Application of
Heinz F. Sutoris, et al.
Application No. 10/181,439
Filed: July 25, 2002
Attorney Docket No. 225641US0PCT

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 4, 2004, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid February 4, 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.

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being forwarded to Technology Center AU 1714 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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ALEXANDRIA, VA 22314

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MAR 0 5 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of
Heinz F. Sutoris, et al.
Application No. 10/181,439
Filed: July 25, 2002
Attorney Docket No. 225641US0PCT

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 4, 2004, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid February 4, 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.

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being forwarded to Technology Center AU 1714 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

RECEIVED: 3-8-04
OBLON, SPIVAK, McCLELLAND
MAIER & NEUSTADT, P.C.
DOCKETING DEPT.
Initials/Date Docketed: 3-8-04
Type of Resp(s):
Due Date(s):

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

17 JUL 2003

#5

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Armstrong, Westerman & Hattori LLP
Suite 1000
1725 K Street NW
Washington, DC 20006

In re Application of	:	
CAILLEUX, Helene	:	DECISION ON
Application No.: 10/181,440	:	
PCT No.: PCT/FR00/02395	:	PETITION
Int. Filing Date: 29 August 2000	:	
Priority Date: 22 September 1999	:	UNDER 37 CFR 1.181
Attorney Docket No.: 020771	:	
For: SYSTEM FOR MANAGING ELECTRIC	:	AND 37 CFR 1.137(b)
POWER IN A HYBRID MOTOR VEHICLE	:	

This decision is in response to applicant's "Request For Withdrawal of Notice of Abandonment and For Consideration of Petition to Revive Filed July 25, 2002," filed with the United States Patent and Trademark Office on 15 October 2002.

BACKGROUND

On 29 August 2000, applicant filed international application PCT/FR00/02395, claiming a priority date of 22 September 1999. On 17 April 2001, a demand for international preliminary examination was filed prior to nineteen months from the priority date. As such, the deadline for entry into the national stage in the United States is thirty months from the priority date, or 22 March 2002.

On 25 July 2002, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and a declaration.

On 17 September 2002, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909) indicating the application went abandoned for failure file a copy of the international application by thirty months.

On 15 October 2002, applicant filed "Request For Withdrawal of Notice of Abandonment and For Consideration of Petition to Revive File July 25, 2002," accompanied by a copy of a petition to revive and a postcard receipt.

On 19 December 2002, applicant filed "Second Request For Withdrawal of Notice of Abandonment and For Consideration of Petition to Revive File July 25, 2002," accompanied by a copy of a Petition to Revive and a copy of a postcard receipt.

On 12 Match 2003, applicant filed a third copy of the Petition to Revive.

DISCUSSION

Petition Under 37 CFR 1.181

A petition under 37 CFR 1.181 to accord a receipt date to paperwork that applicant claims was lost by the Office must be accompanied by (1) a true copy of what applicant claims was originally submitted and (2) proof that the paperwork was submitted on a particular date.

Applicant filed a copy of a postcard receipt listing the applicant, docket number and a petition to revive. It is date-stamped 25 July 2002 by the USPTO. This is adequate evidence that a petition to revive the instant application was filed on 25 July 2002. Applicant indicates that the enclosed petition is a copy of the petition filed on 25 July 2002. It is accepted as having a receipt date of 25 July 2002.

Petition Under 37 CFR 1.137(b)

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) a proposed response, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

Applicant states that "the entire delay from the deadline for entry into the U.S. national stage to the date of the present petition was unintentional," which complies with 37 CFR 1.137(b)(3). The appropriate national fee has been submitted. The petition fee will be charged to deposit account no. 01-2340, as authorized. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

The fee for late furnishing of the oath or declaration will be charged to deposit account no. 01-2340, as authorized.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED**.

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision including mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an English translation of the international application is required.

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 703-305-0455
Facsimile: 703-308-6459

24 APR 2003

#4

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

George E. Oram
Arent Fox Kintner Plotkin & Kahn
Suite 400
1050 Connecticut Avenue
Washington, D.C. 20036

In re Application of
CHOW et al.
Application No.: 10/181,452
PCT No.: PCT/CA01/00201
Int. Filing Date: 19 February 2001
Priority Date: 18 February 2000
Attorney Docket No.: 108320-00011
For: ENCODING METHOD AND SYSTEM RESISTANT TO POWER ANALYSIS

DECISION ON PAPERS UNDER 37 CFR 1.42

This is a response to the declaration filed 23 January 2003 which is being treated as a request under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 19 February 2001, applicants filed international application PCT/CA01/00201, which claimed a priority date of 18 February 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 23 August 2001. A Demand was filed with the International Preliminary Examining Authority electing the United States. As a result, the deadline for payment of the basic national fee was extended to expire on 18 August 2002.

On 18 July 2002, applicants filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee; a copy of the international application; a preliminary amendment; and an information disclosure statement.

On 30 September 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497 and the surcharge fee required under 37 CFR 1.492(e). The notification set a two-month time limit in which to respond.

On 23 January 2003, applicants filed an executed declaration/power of attorney. The declaration is executed by: Stanley Chow and Harold Johnson as inventors and Miheng Yan on behalf of deceased inventor, James Zhengchu Xiao.

DISCUSSION

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

The declaration filed 23 January 2003 is executed by Stanley Chow and Harold Johnson as inventors and Miheng Yan as the "legal representative" of the deceased inventor, James Zhengchu Xiao. The declaration submitted appears to have been executed by the proper party under 37 CFR 1.42, however, the declaration does not satisfy the requirements under 37 CFR 1.497(b)(2).

37 CFR 1.497(b)(2) states the following:

> (2) If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, or § 1.47) the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative.

Pursuant to revised 37 CFR 1.497(b)(2), in addition to the citizenship and former residence and post office address of the deceased inventor referenced under 37 CFR 1.497(a)(3) and 37 CFR 1.63, the declaration must also provide residence, citizenship, and post office address for the legal representative. The declaration filed on 23 January 2003 provides this information with respect to the legal representative, but not the inventor. Accordingly, the declaration is not in compliance with 37 CFR 1.497(a)(3) and 37 CFR 1.63.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is REFUSED.

Applicant is required to provide an oath/declaration in compliance with 37 CFR 1.497(a)-(b) within **TWO (2) MONTH** from the mail date of this Decision. Failure to respond will result in the abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42."

Any further correspondence with respect to this matter should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42" and be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.

Applicants are advised that, effective May 1, 2003, the Office is changing its correspondence address. Any further correspondence with respect to this matter deposited with the United States Postal Service on or after May 1, 2003 should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (703) 308-6314
Fax: (703) 308-6459

19 JUN 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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George E. Oram
Arent Fox Kintner Plotkin & Kahn
Suite 400
1050 Connecticut Avenue
Washington, D.C. 20036

In re Application of
CHOW et al.
Application No.: 10/181,452
PCT No.: PCT/CA01/00201
Int. Filing Date: 19 February 2001
Priority Date: 18 February 2000
Attorney Docket No.: 108320-00011
For: ENCODING METHOD AND SYSTEM RESISTANT TO POWER ANALYSIS

DECISION ON
PAPERS UNDER 37 CFR 1.42

This is a response to the "Renewed Submission under 37 CFR 1.42." No petition fee is required.

BACKGROUND

On 19 February 2001, applicants filed international application PCT/CA01/00201, which claimed a priority date of 18 February 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 23 August 2001. A Demand was filed with the International Preliminary Examining Authority electing the United States. As a result, the deadline for payment of the basic national fee was extended to expire on 18 August 2002.

On 18 July 2002, applicants filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee; a copy of the international application; a preliminary amendment; and an information disclosure statement.

On 30 September 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497 and the surcharge fee required under 37 CFR 1.492(e). The notification set a two-month time limit in which to respond.

On 23 January 2003, applicants filed an executed declaration/power of attorney. The declaration is executed by: Stanley Chow and Harold Johnson as inventors and Miheng Yan on behalf of deceased inventor, James Zhengchu Xiao. In a decision dated 24 April 2003, applicants' request filed 23 January 2003 was dismissed because the declaration was defective under 37 CFR 497(b).

On 13 June 2003, applicant filed "Renewed Submission under 37 CFR 1.42."

DISCUSSION

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

The declaration filed 13 June 2003 is executed by Miheng Yang as the "legal representative" of the deceased inventor, James Zhengchu Xiao. The declaration is acceptable under 37 CFR 1.42 and complies with 37 CFR 1.497(a)-(b). Accordingly, the requirements for entry into national stage under 35 U.S.C. 371(c) were completed as of 13 June 2003.

CONCLUSION

The papers filed under 37 CFR 1.42 are ACCEPTED.

The application has an international filing date of 19 February 2001, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of **13 June 2003**.

The application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (703) 308-6314
Fax: (703) 308-6459

ication No. 10/181,489

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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SEP 0 6 2005

OFFICE OF PETITIONS

Finnegan Henderson Farabow Garrett & Dunner
1300 I Street NW
Washington DC 20005-3315

In re Application of
Yuyama et al.
Application No. 10/181,489
Filed: July 19, 2002
Patent No: 6,774,131 B1
Attorney Docket No. 07385.0014-00000

: DECISION GRANTING PTA AND NOTICE TO ISSUE CERTIFICATE OF CORRECTION

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT" received on October 8, 2004. Patentees request that the patent term adjustment indicated on the patent be corrected from zero (0) to eighteen (18) days.

The request for reconsideration of the patent term adjustment indicated on the patent is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by *sua sponte* issuance of a certificate of correction showing a revised Patent Term Adjustment of eighteen **(18)** days. The Office will also adjust the PAIR calculation to reflect this decision.

On August 10, 2004, the above-identified application matured into U.S. Patent No. 6,774,131 B1. The instant request for reconsideration considered filed October 8, 2004was 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. Citing 1247 OG 111, patentee states that the initial determination of patent term adjustment of 18 days should not have been reduced by 62 days for the submission of a "Miscellaneous Incoming Paper" after the Notice of Allowance, as the only paper filed after the mailing of the Notice of Allowance was a Comments on Statement of Reasons for Allowance.

Patentees' argument is well-taken. By Official Gazette Notice dated June 26, 2001, the Director has advised applicants and patentees that the filing after the mailing of a Notice of Allowance of a response to the examiner's reasons for allowance will not be considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application and will not result in reduction of a patent term adjustment pursuant to 37 CFR 1.704(c)(10) *Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance*, 1247 OG 111 (June 26, 2001). A review of the application record reveals that the reduction of 62 days was based on the filing after allowance of a "Comments on Statement of Reasons for Allowance" filed June 10, 2004. Thus, it is concluded that the patent term adjustment should not have been reduced by 62 days.

Furthermore, there were no other bases for reduction of the patent term adjustment.

In view thereof, the patent term adjustment indicated on the patent should have been eighteen (18) days.

The $200.00 fee set forth in 37 CFR 1.18(e) has been charged to Deposit Account No. 06-0916, as authorized. 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 eighteen (18) days.

Telephone inquiries specific to this matter should be directed to Kery A. Fries, Senior Legal Advisor, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy at 571-272-7757.

Kery A Fries
for

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction
Adjusted PAIR calculation

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Alexandria, VA 22313-1450
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WK

Mailed: 11-21-06

In re application of	:	
Endo et al.	:	DECISION ON
Serial No. 10/181,504	:	PETITION
Filed: October 7, 2002	:	
For: Polymer Electrolyte Battery And Method For Manufacturing Same	:	

This is a decision on PETITION TO EXPUNGE UNDER 37 C.F.R. 1.59(b), filed April 26, 2006, which has been accepted as a timely petition under 1.59(b) and MPEP 724.02 and is before the Group Director of Technology Center for consideration.

DECISION

Petitioner requests that a letter filed January 17, 2006, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public.

The petition is **GRANTED.**

Section 1.59 has been amended to eliminate references to returning documents that have been expunged to recognize that, with electronic Official files, there will be nothing to return when a paper is expunged.

The Office is capturing electronic images of all documents that form the Official file. Where the image is generated from a physical source document, the originating document may be disposed of once the electronic image accuracy is verified. The paper source document will eventually be destroyed under a United States National Archives and Records Administration (NARA) approved schedule. Therefore, if a document is to be expunged from the record, the only operation that will be required will be removal of the image from the Official file.

Paragraph (a)(1) of §1.59 has been amended by deleting the phrase "and returned " from the first sentence, and deleting the second sentence. Paragraph (b) of §1.59 has been amended by deleting the phrase "and return " from each of the first and second sentences. The Office will continue to provide notice in the Official file that a paper has been expunged and the Office will send a decision to the applicant notifying the applicant that the paper has been expunged.

The image of the document will be removed from the Official file.

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Kevin Buckley
Sonnenschein Nath & Rosenthal LLP
P.O. Box 061080
Wacker Drive Station, Sears Tower
Chicago, IL 60606-1080

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WASHINGTON, DC 20231
www.uspto.gov

Emily A. Shouse
Waddley & Patterson
Bank of America Plaza, Suite 2020
414 Union street
Nashville, TN 37219

In re Application of	:	
CHISM et al	:	DECISION ON
Application No.: 10/181,511	:	
Int. Filing Date: 18 January 2000	:	REQUEST UNDER
Priority Date: NA	:	
Attorney's Docket No.: N8708-EAS	:	37 CFR 1.497(d)
For: THREE-PHASE PLASMA GENERATOR	:	
HAVING ADJUSTABLE ELECTRODES	:	

This is a decision on applicants' "SUBMISSION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)," and "RESPONSE TO NOTIFICATION OF DEFECTIVE RESPONSE AND REQUEST TO CORRCT THE INVENTORSHIP " filed on 13 January 2003, which is being treated under 37 CFR 1.497(d) deleting an inventor, Hugh W. Greene, in the executed declaration.

BACKGROUND

On 18 January 2000, applicants filed international application No. PCT/US00/01123 designating the United States. A Demand was filed in this international application on 25 April 2000. Accordingly, the deadline for entry into the national stage by paying the basic national fee in the U.S. expired as of midnight of 18 July 2002.

On 18 July 2002, applicants filed a Transmittal Letter for entry into the national stage in the United States of America. Filed with the Transmittal Letter was, inter alia, the requisite basic national fee and an executed declaration.

On 11 September 2002, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that the current "Oath or Declaration of the inventors, does not comply with 37 CFR 1.47(a) and (b) in that it is not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68 because Hugh W. Greene is listed as an inventor on the international published application. However, he is not listed on the declaration as an inventor.

The notice indicated that the items set forth above must be submitted within two months from its 11 September 2002 date of mailing or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

On 13 January 2003, applicants filed a "SUBMISSION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)," which included a newly executed declaration, and a "REQUEST TO CORRECT INVENTORSHIP UNDER 37 C.F.R. 1.48(a)."

DISCUSSION

A submission under 37 CFR 1.497(d) must include:

(1) a statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
(2) the fee set forth in § 1.17(I); and
(3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see 37 CFR §3.73(b) of this chapter).

A review of the application file reveals that applicants has satisfied item (2) under 37 CFR 1.497(d), but not requirements (1) and (3).

With respect to item (1), the statement submitted on 13 January 2003 by Hugh W. GREENE is insufficient because the statement states that the error in inventorship occurred without a deceptive intent appears to refer to the invention in the application titled "THREE PHASE ALTERNATING CURRENT PLASMA GENERATOR HAVING ADJUSTABLE EXTENDED LIFE ELECTRODES AND MULTIPLE STREAM INJECTOR RINGS." This is the title that appears both in the declaration and assignment submitted on 13 January 2003, which is different from the invention of the title of the aforementioned application (THREE-PHASE PLASMA GENERATOR HAVING ADJUSTABLE ELECTRODES). Therefore, inventor Greene appears to be referring to a different invention than the invention in application 10/181,511.

With respect to item (2), the processing fee of $130.00 has been submitted by check.

With respect to item (3), the consent of the assignee, Scientific Utilization, Inc., does not comply with 37 CFR 3.73(b) in that it is not accompanied by documentary evidence of the chain of title from the inventor to the assignee for the invention of the aforementioned application because the assignment refers to the invention titled THREE PHASE ALTERNATING CURRENT PLASMA GENERATOR HAVING ADJUSTABLE EXTENDED LIFE ELECTRODES AND MULTIPLE STREAM INJECTOR RINGS."

Accordingly, the request can not be granted at this time because the declaration and assignment do not appear to be proper for application 10/181,511.

CONCLUSION

For the reasons above, the request under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Request Under 37 CFR 1.497(d)". No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter deposited with the United States Postal Service on or after May 1, 2003 should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office

Leonard Smith
PCT Legal Examiner
PCT Legal Office

Telephone: (703) 308-6312
Facsimile: (703) 308-6459

25 JUL 20[illegible]

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Emily A. Shouse
Waddley & Patterson
Bank of America Plaza, Suite 2020
414 Union street
Nashville, TN 37219

In re Application of	:	
CHISM et al	:	DECISION ON
Application No.: 10/181,511	:	
Int. Filing Date: 18 January 2000	:	REQUEST UNDER
Priority Date: NA	:	
Attorney's Docket No.: N8708-EAS	:	37 CFR 1.497(d)
For: THREE-PHASE PLASMA GENERATOR	:	
HAVING ADJUSTABLE ELECTRODES	:	

This is a decision on applicants' "RENEWED REQUEST UNDER 37 CFR 1.497(d)" filed on 26 June 2003, deleting inventor, Hugh W. Greene, in the executed declaration.

BACKGROUND

In a decision from this Office on 02 May 2003 the request filed on 13 January 2003 was dismissed. The decision indicated that the title that appears in the declaration and assignment submitted on 13 January 2003 was different from the title of the aforementioned application. Accordingly, the request could not be granted at such time because the declaration and assignment did not appear to be proper for application 10/181,511.

On 26 June 2003 applicants filed a "Renewed Request Under 37 CRF 1.497(d)."

DISCUSSION

A review of the application file reveals that applicants has satisfied item (1) –(3) under 37 CFR 1.497(d).

With respect to item (1), the statement submitted on 26 June 2003 indicates that the declaration and the assignment of the inventors are proper for application 10/ 181,511 as the title of the application as originally filed was "THREE PHASE ALTERNATING CURRENT PLASMA GENERATOR HAVING ADJUSTABLE, XENDED LIFE ELECTRODES AND MULTIPLE STREAM INJECTOR RINGS" and it was changed *ex officio* by the International Search Authority. Therefore, Mr. Greene statement on 13 January 2003 was sufficient since it stated that the error in inventorship occurred without a deceptive intent.

With respect to item (2), the processing fee of $130.00 has been submitted by check.

With respect to item (3), the consent of the assignee, Scientific Utilization, Inc., does comply with 37 CFR 3.73(b) in that it is accompanied with supporting documentation-assignment. Accordingly, Scientific Utilization, Inc. has filed the requisite papers establishing their right to take action under 37 CFR §3.73(b).

Accordingly, the requests are deemed to satisfy requirements (1), (2), and (3) under 37 CFR 1.497(d).

CONCLUSION

For the reasons above, the request under 37 CFR 1.497(d) is **GRANTED.**

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing consistent with this decision. The 35 USC 371 date of this application is **18 July 2002**.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office

Boris Milef
PCT Legal Examiner
PCT Legal Office

Telephone: (703) 308-6312
Facsimile: (703) 308-6459

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JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
ATLANTA, GA 30309

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OFFICE OF PETITIONS

In re Application of
Kristian GLEJBOL et al.
Application No. 10/181,516
Filed: November 13, 2002
Attorney Docket No. 44125/276101

DECISION DISMISSING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed January 31, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application is abandoned for failure to submit (1) the issue fee; (2) the publication fee; and (3) corrected formal drawings, on or before September 14, 2004, as required by the Notices mailed June 14, 2004. A Notice of Abandonment was mailed on October 27, 2004.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item (1).

The petition cannot be granted at this time since, although the issue and publication fees have been received, there is no indication that corrected formal drawings as required by the Notice of Allowability of June 14, 2004 have been received. Accordingly, before revival of the instant application can be effected, corrected formal drawings must be submitted.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
ATLANTA GA 30309

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SEP 1 9 2005

OFFICE OF PETITIONS

In re Application of	:	
GLEJBOL et al.	:	DECISION
Application No. 10/181,516	:	ON PETITION
Filed: November 13, 2002	:	
Attorney Docket No. 53916/276101	:	

This is a decision on a renewed petition under 37 CFR 1.137(b), filed June 21, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit (1) the issue fee; (2) the publication fee; and (3) corrected formal drawings, in a timely manner, in reply to the Notice of Allowance and Fee(s) Due, mailed June 14, 2004, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on September 15, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that the reply in the form of (1) the issue and publication fees; (2) the corrected formal drawings as required by the Notice of Allowability mailed June 14, 2004; (3) the petition fee; and (4) the required statement of unintentional delay have been received. Accordingly, the issue and publication fee payments and the corrected formal drawings are accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Denise Pothier at (571) 272-4787.

The application matter is being forwarded to Office of Patent Publication.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Notice of Draftsperson's Patent Drawing Review (PTO-948)

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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MILLIPORE CORPORATION
290 CONCORD ROAD
BILLERICA, MA 01821

Mail Date: 04/21/2010

Applicant	: Barbara Young	: DECISION ON REQUEST FOR
Patent Number	: 7588886	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/181,517	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/15/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **596** 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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HOFFMAN WASSON & GILTER
2461 SOUTH CLARK STREET
ARLINGTON VA 22202

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OFFICE OF PETITIONS

In re Application of	:	
MANGELL, Efraim	:	
Application No. 10/181,518	:	DECISION ON PETITION
Filed: December 16, 2002	:	UNDER 37 CFR 1.313(c)(1)
Attorney Docket No. **P8200**	:	

This is a decision on the petition under 37 CFR 1.313(c), filed November 1, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED.**

37 CFR 1.313(c) provides that:

Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:

(1) Unpatentability of one of more claims, which petition must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;

(2) Consideration of a request for continued examination in compliance with 37 CFR 1.114; or

(3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

Upon payment of the issue fee, an application will not be withdrawn from issue upon petition except for the reasons enumerated in 37 CFR 1.313(c). The circumstances of the above-identified application do not fall within any of those exceptions.

For the reason stated above, the petition under 37 CFR 1.313(c) cannot be granted.

Petitioner is reminded that the filing of any renewed petition to withdraw from issue may not be recognized or effective if not received by the appropriate deciding official in time to act prior to issuance. *Note* 37 CFR 1.313(d). It is recommended that the facsimile number listed below be used to file the renewed petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: **(571) 273-0025**
Office of Petitions

Any questions concerning this matter may be directed to Monica A. Graves at (571) 272-7253.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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2461 SOUTH CLARK STREET
ARLINGTON VA 22202

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OFFICE OF PETITIONS

NOTICE

In re Application of :
MANGELL, Efraim :
Application No. 10/181,518 :
Filed: December 16, 2002 :
Attorney Docket No. **P8200** :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED.**

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the Monica A. Graves at (571) 272-7253.

Frances Hicks
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10-2-08

TO SPE OF : ART UNIT 2895

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/181518 Patent No.: 7316934

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Valerie Jacks
Certificates of Correction Branch
703-308-9390 ext. 114

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☒ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: Enter the portion "Cancel the text..., "Jan 20... 60/237,458"
Do not enter "insert the following paragraph... ".
The scope of the claims would be changed or affected by the priority data.

SPE

2895
Art Unit

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,316,934

APPLICATION NO.: 10/181,518

ISSUE DATE : Jan. 8, 2008

INVENTOR(S) : Efraim Mangell

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

enter

In Foreign Application Priority Data, cancel the text beginning with "Jan. 20, 2000" and ending in "60/237,458."

Do not enter

In ~~Related~~ U.S. Application Data, insert the following paragraph:

-- Nonprovisional of ~~Provisional~~ Patent Applications Nos. 60/177,087, ~~filed January~~ 20, 2000; 60/189,756, filed March 16, 2000; 60/191,208, ~~filed March~~ 22, 2000; and 60/237,458, filed October 2, ~~2000.~~ --

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Andrea Pacelli, King & Spalding LLP
1185 Avenue of the Americas
New York, NY 10036

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No : _____

DATE : 07/27/05

TO SPE OF : ART UNIT 2891

SUBJECT : Request for Certificate of Correction for Appl. No : [illegible]
Patent No : 7316934

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
Palm Location 7580

Should the changes be made Valerie Jackson Certificates of Correction Branch

703-756-1573

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box

- ☐ Approved — All changes apply.
- ☐ Approved in Part — Specify below which changes do not apply.
- ☒ Denied — State the reasons for denial below.

Comments: The denial is maintained because in MPEP 1481.03 the conditions for correction by Certificate of Corrections have not been met in the application which became a patent.

/N. Drew Richards/ AU 2895

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

0 5 JAN 2010

HUSCH BLACKWELL SANDERS, LLP
HUSCH BLACKWELL SANDERS LLP WELSH & KATZ
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO, IL 60606

Patentee: MANGELL, Efraim	:	
U.S. Patent No.: 7,316,934	:	
U.S. Application No.: 10/181,518	:	
PCT Application No.: PCT/GB2000/004869	:	DECISION
Int. Filing Date: 18 December 2000	:	
Priority Date Claimed: 20 January 2000	:	
Attorney Docket No.: P8200 (48195-47751)	:	
For: PERSONALIZED HARDWARE	:	

This is in response to patentee's petitions under 37 CFR 1.78 and 37 CFR 1.183 filed 24 September 2009 and supplemental petitions under 37 CFR 1.78 and 37 CFR 1.183 filed 30 November 2009.

BACKGROUND

On 18 December 2000, patentee filed international application PCT/GB2000/004869, which claimed priority of an earlier United States application filed 20 January 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 26 July 2001. The thirty-month period for paying the basic national fee in the United States expired on 20 July 2002.

On 18 July 2002, patentee filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 07 April 2003, the DO/EO/US mailed a Notice of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903) and an official filing receipt.

On 08 January 2008, U.S. application number 10/181,518 issued as U.S. Patent number 7,316,934.

On 06 August 2008, patentee filed a request for a Certificate of Correction by which patentee sought to delete four U.S. provisional applications which were listed under the Foreign

Application Priority Data heading of the patent and insert the same four provisional applications under a Related U.S. Application Data heading of the patent.

On 20 March 2009, the Office mailed a decision granting the 06 August 2008 request to delete the four provisional applications from the Foreign Application Priority Data heading of the patent but denying the request to insert the four provisional applications under a Related U.S. Application Data heading of the patent.

On 07 April 2009, the Office issued a Certificate of Correction in accordance with the 20 March 2009 decision.

On 24 September 2009, patentee filed the present petitions under 37 CFR 1.78 and 37 CFR 1.183, including a request for a Certificate of Correction.

On 27 November 2009, the Office mailed a decision denying the 24 September 2009 request for a Certificate of Correction.

On 30 November 2009, patentee filed supplemental petitions under 37 CFR 1.78 and 37 CFR 1.183.

DISCUSSION

Legal Basis

Patentee seeks to claim priority under 35 U.S.C. 119(e) to U.S. provisional application numbers 60/177,087, 60/189,756, 60/191,208, and 60/237,458.

35 U.S.C. 119(e)(1) states in relevant part,

> An application for patent filed under section 111(a) or section 363 of this title for an invention disclosed in the manner provided by the first paragraph of section 112 of this title in a provisional application filed under section 111(b) of this title, by an inventor or inventors named in the provisional application, shall have the same effect, as to such invention, as though filed on the date of the provisional application filed under section 111(b) of this title, if the application for patent filed under section 111(a) or section 363 of this title is filed not later than 12 months after the date on which the provisional application was filed and if it contains or is amended to contain a specific reference to the provisional application. No application shall be entitled to the benefit of an earlier filed provisional application under this subsection unless an amendment containing the specific reference to the earlier filed provisional application is submitted at such time during the pendency of the application as required by the Director. The Director may consider the failure to submit such an amendment within that time period as a waiver of any benefit under this subsection. The Director may establish procedures, including the payment of a surcharge, to accept an unintentionally delayed submission of an amendment under this subsection during the pendency of the application. (Emphasis added.)

37 CFR 1.78(a)(5) states in relevant part,

> (i) Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed provisional applications must contain or be amended to contain a reference to each such prior-filed provisional application, identifying it by the provisional application number (consisting of series code and serial number).
>
> (ii) This reference must be submitted during the pendency of the later-filed application. If the later-filed application is an application filed under 35 U.S.C. 111(a), this reference must also be submitted within the later of four months from the actual filing date of the later-filed application or sixteen months from the filing date of the prior-filed provisional application. If the later-filed application is a nonprovisional application which entered the national stage from an international application after compliance with 35 U.S.C. 371, this reference must also be submitted within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) in the later-filed international application or sixteen months from the filing date of the prior-filed provisional application. These time periods are not extendable. Except as provided in paragraph(a)(6) of this section, the failure to timely submit the reference is considered a waiver of any benefit under 35 U.S.C. 119(e) to such prior-filed provisional application. The time periods in this paragraph do not apply if the later-filed application is:
>
> (A) An application filed under 35 U.S.C. 111(a) before November 29, 2000; or
>
> (B) A nonprovisional application which entered the national stage after compliance with 35 U.S.C. 371 from an international application filed under 35 U.S.C. 363 before November 29, 2000.
>
> (iii) If the later-filed application is a nonprovisional application, the reference required by this paragraph must be included in an application data sheet (§ 1.76), or the specification must contain or be amended to contain such reference in the first sentence(s) following the title. (Emphasis added.)

In the present case, a specific reference to the provisional applications was not made by way of either an amendment to the specification or an application data sheet within either the time period set forth in 37 CFR 1.78(a)(5)(ii) or during the pendency of the application.

MPEP 1481.03 states in relevant part,

> Under no circumstances can a Certificate of Correction be employed to correct an applicant's mistake by adding or correcting a priority claim under 35 U.S.C. 119(e) for an application filed on or after November 29, 2000. . . . A Certificate of Correction is NOT a valid mechanism for adding or correcting a priority claim under 35 U.S.C. 119(e) after a patent has been granted on an application filed on or after November 29, 2000.

In the present case, because the lack of a proper benefit claim to the provisional applications was the result of patentee's failure to make a specific reference to the provisional applications in compliance with 37 CFR 1.78(a)(5), it would not be appropriate to add a benefit claim to the provisional applications via the requested Certificate of Correction.

Response to Argument

The petition states that the Office's acknowledgement of the claim of priority to the provisional applications on various documents caused patentee to believe that all requirements for claiming priority to the provisional applications had been met and that this repeated acknowledgement and the Office's failure to inform patentee of the deficiency in the specific reference constitutes an Office mistake which is curable by a Certificate of Correction. However, the failure of patentee to include the specific reference in compliance with 37 CFR 1.78(a)(5) was patentee's mistake as specifically stated in the petition. The requirement to add a specific reference to priority applications is the sole responsibility of the applicant, regardless of any acknowledgement of benefit claims on the part of the Office. MPEP 201.11 clearly indicates that an applicant should not rely on such acknowledgements. See MPEP 201.11, Section III. D., (stating, "Even if the Office has recognized a benefit claim by entering it into the Office's database and including it on applicant's filing receipt, the benefit claim is not a proper benefit claim under 35 U.S.C. 119(e) or 35 U.S.C. 120 and 37 CFR 1.78 unless the reference is included in an ADS or in the first sentence(s) of the specification and all other requirements are met.) Furthermore, the requirements of 37 CFR 1.78 are not conditioned upon notice from the Office of any failure to comply. Because the failure to comply with the provisions of 37 CFR 1.78(a)(5) were the result of patentee's error, the correction of the priority claim cannot be remedied by a Certification of Correction as set forth in MPEP 1481.03.

The petition states that the application did contain a specific reference to the provisional applications in compliance with 35 U.S.C. 119(e) in that the specific reference was made in the Request (Form PCT/RO/101), which is part of the international application. 35 U.S.C. 119(e) does not specify the exact nature of the required specific reference. However, 37 CFR 1.78(a)(5) sets forth both the required location of the specific reference and the time period during which the specific reference must be included. The Office has authority to establish such rules pursuant to 35 U.S.C. 2(b)(2), provided that such rules are not inconsistent with law. The petition cites Tafas v. Dudas (541 F. Supp. 2d 805, 86 USPQ2d 1623) to support the proposition that the Office cannot use a rule to add limitations to a statute.[1] However, the court in Tafas v. Dudas held that the Office has the authority to promulgate rules that are procedural. See Tafas v. Dudas, 541 F. Supp. 2d at 813. In the present case, the provisions of 37 CFR 1.78 are procedural in nature and are not in conflict with 35 U.S.C. 119(e). Because the application did not include a specific reference to the provisional applications as set forth in 37 CFR 1.78(a)(5), the international application did not satisfy 35 U.S.C. 119(e) merely by listing the priority applications in the Request.

The petition requests that the requirement that the specific reference be submitted during the pendency of the application be waived. 37 CFR 1.183 permits waiver of a requirement of the rules which is not a requirement of the statutes. However, the requirement that the specific

[1] It is noted that the opinion of the court in Tafas v. Dudas that the rules at issue were beyond the Office's rulemaking authority was later reversed on appeal by the Court of Appeals for the Federal Circuit ("CAFC"). See Tafas v. Doll (559 F.3d 1345, 90 USPQ2d 1129). The decision in Tafas v. Doll was subsequently vacated to allow for a rehearing en banc. The Office later withdrew the rules in dispute and obtained a dismissal of its appeal of the decision in Tafas v. Dudas by joint motion prior to issuance of a decision en banc on the merits of the appeal.

reference be included during the pendency of the application is specifically required by 35 U.S.C. 119(e)(1) and therefore cannot be waived by the Director.

The petition requests that the amendment adding the specific reference to the application be accepted as having been unintentionally delayed. However, 35 U.S.C. 119(e)(1) permits the Director to accept such unintentionally delayed amendments only during pendency of the application.

The petition states that correction of the priority claim via a reissue application is not an adequate alternative because the delay in prosecution of the reissue application would be substantial and the cost of the reissue procedure would exceed the cost of a Certificate of Correction. However, patentee has not established that expense of filing a reissue application would cause undue burden on patentee. Furthermore, because a new extensive prior art search would not be required, a substantial delay in prosecution of a reissue application based on the present patent is unlikely. Moreover, reissue applications take precedence over other applications and are thus advanced out of turn. See MPEP 708.01. Therefore, patentee's claim of undue delay is not persuasive. Additionally, patentee has not demonstrated that correction of the priority claim via a reissue application would result in the loss of substantive patent rights. Accordingly, issuance of the requested Certificate of Correction is not indicated in the present case.

CONCLUSION

For the reasons above, the petitions under 37 CFR 1.78 and 37 CFR 1.183 and the request for a Certificate of Correction are DISMISSED without prejudice.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

BryanLin

Bryan Lin
PCT Legal Examiner
PCT Legal Office
Telephone: 571-272-3303
Facsimile: 571-273-0459

cc: BARNES & THORNBURG LLP
750-17TH STREET NW
SUITE 900
WASHINGTON, DC 20006-4675

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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#13

STERNE KESSLER GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON, D.C. 20005-3934

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APR 1 2 2004

OFFICE OF PETITIONS

In re Application of :
Arie Gutman et al :
Application No. 10/181,523 :
Filed: October 25, 2002 :
Attorney Docket No. 1981.0050000

ON PETITION

This is a decision on the petition, filed April 9, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 2, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (703) 306-5684.

The file will be forwarded to Technology Center AU 1621 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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#14

Date : April 9, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of Application No. 10/181,523

Applicant(s) : Arie Gutman et al
Application No. : 10/181,523
Filed : October 25, 2002

The above-identified application has been assigned Patent No. 6,720,438 and an issue date of April 13, 2004.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of : April 13, 2004.

"All reference to Patent No. 6,720,438 to Arie Gutman et al of Israel for PROCESS FOR THE PREPARATION OF LATANOPROST appearing in the Official Gazette of April 13, 2004 should be deleted since no patent was granted."

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Geraldine Dozier, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara K. Greene, PK3-910

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WILLIAM J. BUNDREN, ESQ.
576 FARMINGTON ROAD, WEST
ACCOKEEK, MD 20607-9796

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OFFICE OF PETITIONS

In re Application of
Robert J. Chapolini, et al.
Application No. 10/181,528
Filed: November 13, 2002
Attorney Docket No. None

ON PETITION

This is a decision in response to the petition, filed January 27, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed October 31, 2003. A Notice of Abandonment was mailed on May 10, 2004. On January 27, 2006, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of $750.00; and (3) the requisite statement of unintentional delay.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The application is being referred to Technology Center AU 3721 for consideration of the amendment filed January 27, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: WILLIAM J. BUNDREN
734 LARUE ROAD
MILLERSVILLE, MD 21108

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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QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE
SUITE 2040
MILWAUKEE, WI 53202-4497

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OFFICE OF PETITIONS

In re Application of :
Robert H. Schneider :
Application No. 10/181,531 : ON PETITION
Filed: November 19, 2002 :
Attorney Docket No. 930702.90463 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 16, 2004, to revive the above-identified application.

The petition is **dismissed.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

This application became abandoned for failure to timely pay the issue fee on or before March 15, 2004. Accordingly, this application became abandoned on March 16, 2004.

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

> (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

The instant petition does not satisfy requirement (2) above.

The required petition fee has not been submitted. An authorization to charge a deposit account for the required petition fee has not been submitted and as such, the petition must be dismissed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: Customer Service Window
2011 South Clark Place
Crystal Plaza Two (left side entrance of building)
Arlington, VA

Telephone inquiries should be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : December 30, 2004

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction on Patent No.: 6,784,192

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Magdalene Talley

Thank You For Your Assistance

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

D. MARGARET SEAMAN
PRIMARY EXAMINER

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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KUBOVCIK & KUBOVCIK
SUITE 710
900 17TH STREET NW
WASHINGTON DC 20006

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DEC 10 2004

OFFICE OF PETITIONS

In re Application of :
Teuvo Ilmonen et al :
Application No. 10/181,566 : ON PETITION
Filed: July 18, 2002 :
Attorney Docket No. LAIN-043 :

This is a decision on the petition, filed December 9, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 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 (571) 272-3208.

The examiner of Technology Center AU 1731 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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Paper No. _____

Date : December 10, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of Application No. 10/181,566

Applicant(s) :Teuvo Ilmonen et al
Application No. :10/181,566
Filed :July 18, 2002

The above-identified application has been assigned Patent No. 6,835,281 and an issue date of December 28, 2004.

It is hereby directed that this application be withdrawn from issue at the request of the applicants.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of December 28, 2004:

"All reference to Patent No. 6,835,281 to Teuvo Ilmonen et al of Finland for PROCESS AND COATING COMPOSITION FOR COATING A PAPER WEB appearing in the Official Gazette of December 28, 2004 should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara Greene, Crystal Park 3-908

19 MAR 2004

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COMMISSIONER FOR PATENTS
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P.O BOX 1450
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Carol W. BURTON, Esq.
Hogan & Hartson, L.L.P.
One Tabor Center
Suite 1500 1200 Seventeenth Street
Denver, Colorado 80202

In re Application of	:	DECISION ON
Paul Patrick COYLE	:	
Application No.: 10/181,601	:	
PCT No.: PCT/IE01/00007	:	
Int. Filing Date: 16 January 2001	:	PETITION UNDER
Priority Date: 17 January 2000	:	
Attorney's Docket No.: TOMK0003	:	
For: IMPROVEMENT IN AND RELATING	:	
TO PRINTED EDIBLE PRODUCTS	:	37 CFR 1.137(b)

This decision is in response to applicants' "Petition For Revival Of An Application For Patent Designating The U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed on 31 October 2003.

BACKGROUND

On 16 January 2001 this international application was filed claiming an earliest priority date of 17 January 2000.

On 17 July 2002, applicants filed the Transmittal letter for entry into the national stage in the United States, which was accompanied by, basic national fee. No executed declaration or oath was filed at such time.

On 13 September 2002, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that the oath or declaration complying with 37 CFR 1.497(a) and (b) must be furnished within the time period set forth and $130.00 surcharge for providing the oath or declaration later than the appropriate 30 months from the priority date. The notification set a two months time limit or 32 months from the priority date for the application, whichever is later to respond.

On 31 October 2003, applicant filed in the United States Patent and Trademark Office (PTO) the instant petition, accompanied by, *inter alia*, an executed declaration and the petition fee for revival of an unintentionally abandoned application.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by submitting an executed declaration, (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b).

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

APPLICATION

The above National Application Serial No.: 10/181,601 was inadvertently assigned also Serial No.: 10/476,563. Upon review, this inadvertent mistake has been corrected. The correct National Application Serial Number for PCT/IE01/00007 is 10/181,601, and all future correspondence dealing with the above international application should refer to such serial number. The papers filed on 31 October 2003 have been placed in Application Serial No.: 10/181,601.

The $487.00 Basic National fee has been refunded to Deposit Account No. 50-1353 since it was paid in excess as the 920.00 basic national fee has been paid.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **31 October 2003.**

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (703) 308-6312
Facsimile: (703) 308-6459

Leonard Smith
PCT Legal Examiner
PCT Legal Office

20 MAR 2004

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HOGAN & HARTSON, LLP

Carol W. BURTON, Esq.
Hogan & Hartson, L.L.P.
One Tabor Center
Suite 1500 1200 Seventeenth Street
Denver, Colorado 80202

In re Application of Paul Patrick COYLE Application No.: 10/181,601 PCT No.: PCT/IE01/00007 Int. Filing Date: 16 January 2001 Priority Date: 17 January 2000 Attorney's Docket No.: TOMK0003 For: IMPROVEMENT IN AND RELATING TO PRINTED EDIBLE PRODUCTS	DECISION ON PETITION UNDER 37 CFR 1.137(b)

This decision is in response to applicants' "Petition For Revival Of An Application For Patent Designating The U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed on 31 October 2003.

BACKGROUND

On 16 January 2001 this international application was filed claiming an earliest priority date of 17 January 2000.

On 17 July 2002, applicants filed the Transmittal letter for entry into the national stage in the United States, which was accompanied by, basic national fee. No executed declaration or oath was filed at such time.

On 13 September 2002, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that the oath or declaration complying with 37 CFR 1.497(a) and (b) must be furnished within the time period set forth and $130.00 surcharge for providing the oath or declaration later than the appropriate 30 months from the priority date. The notification set a two months time limit or 32 months from the priority date for the application, whichever is later to respond.

On 31 October 2003, applicant filed in the United States Patent and Trademark Office (PTO) the instant petition, accompanied by, *inter alia*, an executed declaration and the petition fee for revival of an unintentionally abandoned application.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by submitting an executed declaration, (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b).

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

APPLICATION

The above National Application Serial No.: 10/181,601 was inadvertently assigned also Serial No.: 10/476,563. Upon review, this inadvertent mistake has been corrected. The correct National Application Serial Number for PCT/IE01/00007 is 10/181,601, and all future correspondence dealing with the above international application should refer to such serial number. The papers filed on 31 October 2003 have been placed in Application Serial No.: 10/181,601.

The $487.00 Basic National fee has been refunded to Deposit Account No. 50-1353 since it was paid in excess as the 920.00 basic national fee has been paid.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **31 October 2003.**

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (703) 308-6312
Facsimile: (703) 308-6459

Leonard Smith
PCT Legal Examiner
PCT Legal Office

****
*** RX REPORT ***
****

RECEPTION OK

TX/RX NO	6330
RECIPIENT ADDRESS	+
DESTINATION ID	
ST. TIME	04/01 16:43
TIME USE	00'47
PGS.	6
RESULT	OK

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OFFICE OF PETITIONS

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

In re Patent No. 7,465,541
Issued: December 16, 2008
Application No. 10/181,614
371(c) Date: November 15, 2002
Dkt. No.: 50026/032001

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT and
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION
:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705," on February 13, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by 504 days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**.

The above-identified application matured into U.S. Pat. No. 7,465,541 on December 16, 2008. The patent issued with a patent term adjustment (PTA) of 341 days. Patentee requests the increase in adjustment for three grounds: (1) the total adjustment under 37 CFR 1.702(b), which patentee asserts is 646 days; (2) the total applicant delay under 37 CFR 1.704, which patentee asserts is 336 days rather than 305 days; and, (3) the total adjustment pursuant to 37 CFR 1.702(a), which patentee asserts is 194 days rather than 220 days.

As to (1) set forth above, the correct adjustment to which the patent is entitled pursuant to 37 CFR 1.702(b) is 762 days. Patentee perhaps calculated this period based on the date this application fulfilled the requirements of 35 U.S.C. 371. However, in an international application, this period is based on the failure of the Office to issue a patent within three years after the national stage commenced under 35 U.S.C. 371(b) or (f). See, 1.702(b). The priority date of this application is January 21, 2000. As the requirements for early commencement under 35 USC 371(f) were not met, the national stage commenced in this application on July 21, 2002. Thus, "B" delay is 762 days, counting the number of days beginning on July 22, 2005 and ending on August 22, 2007, the day before the date that the request for continued examination (RCE) was filed. See, 1.703(b).

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 July 22, 2005 and ends on August 22, 2007, the day before the RCE was filed, and not August

23, 2003, the day of filing of the RCE as calculated by patentees. See, 35 U.S.C. 154(b)(1)(B)(i). Thus, the over 3 year period is 762 days and not 646 days

Patentee correctly points out that the adjustment is properly reduced 92 days, rather than 61 days in connection with the reply filed September 22, 2006. The reduction pursuant to 37 CFR 1.704(b) commenced July 23, 2006 and ended September 22, 2006.

Accordingly, the adjustment is properly reduced a total of 336 days pursuant to 37 CFR 1.704, as asserted by patentee.

However, the adjustment is further properly reduced 37 days pursuant to 37 CFR 1.703(b)(4) in connection with the Notice of Appeal filed July 17, 2007. The reduction commenced July 17, 2007, the date that the Notice of Appeal was filed, and ended August 22, 2007, the day before the date the at the RCE was filed. See, 37 CFR 1.703(b)(4).

Patentee also correctly points out that the adjustment of 26 days in connection with the mailing of the final Office action on January 17, 2007 is in error. As the final Office action was mailed within four months of the date of filing of the reply on September 22, 2006, the final Office action was timely mailed within the meaning of 37 CFR 1.702(a)(2).

Thus, the correct period of adjustment pursuant to 37 CFR 1.702(a) is 194 days, as asserted by patentee.

In view thereof, the patent is entitled to an overall adjustment of 583 days ("A" adjustment of 194 days + "B" adjustment of 762 days – 336 days of applicant delay – 37 days of delay pursuant to 37 CFR 1.703(b)(4)).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136. See, 37 CFR 1.323(a)(4).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by 583 days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,465,541 B1

DATED : **December 16, 2008** **DRAFT**

INVENTOR(S) : Sakai

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 341 days

Delete the phrase "by 341 days" and insert – by 583 days--

16 OCT 2002

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C.G. Mersereau
Nikolai & Mersereau, P.A.
820 International Centre
900 Second Avenue South
Minneapolis, MN 55402

In re Application of
CRISANTI, Andrea et al.
Application No.: 10/181,620
PCT No.: PCT/GB00/03949
Int. Filing Date: 13 October 2000
Priority Date: 14 October 1999
Docket No.: 20020317.ORI
For: ASSAY DEVICE

DECISION

ON PETITION UNDER

37 CFR 1.137(b)

Applicant's "Petition For Revival of an International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 19 July 2002 is **GRANTED**.

Applicant states "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," as required by 37 CFR 1.137(b)(3). The appropriate national fee and petition fee have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A signed oath or declaration has not yet been submitted.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision, including the mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration are required.

E M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

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NIKOLAI & MERSEREAU, P.A.
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MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Patent No. 7,611,669	:	
Crisanti et al.	:	DECISION ON
Issue Date: 11/03/2009	:	DETERMINATION OF
Application No. 10/181620	:	PATENT TERM ADJUSTMENT
Filed: 02/24/2003	:	and
Attorney Docket No.	:	NOTICE OF INTENT TO ISSUE
20020317.ORI	:	CERTIFICAE OF CORRECTION

This is in response to the "DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 USC 154(b)," filed October 15, 2009. Applicants request that the determination of patent term adjustment be increased from 431 days to 461 days.

The request is **DISMISSED**.

Applicants are advised that § 1.705(b) provides the avenue before the Office for requesting reconsideration of the patent term adjustment indicated in the notice of allowance. See § 1.702-1.705. Moreover, § 1.705(b) provides that:

> An application for patent term adjustment under this section must be filed no later than the payment of the issue fee but may not be filed earlier than the date of mailing of the notice of allowance. An application for patent term adjustment under this section must be accompanied by:
>
> (1) The fee set forth in § 1.18(e) ...

The instant application for patent term adjustment was filed after the mailing of the notice of allowance, but after payment of the issue fee. Thus, the application for patent term adjustment was untimely filed. In addition, neither the fee under § 1.18(e) nor a general authorization to charge any required fees, accompanied the application for patent term adjustment. Accordingly, the request is dismissed for failure to comply with the requirement of paragraph (b)(1) to submit the fee under §1.18(e).

However, with respect to Office delay in taking more than 3 years to issue the patent, rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

The Office of Data Management has been advised of this decision and directed to go forward with processing of this application into a patent.

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods, at (571) 272-3232.

Anthony Knight
Supervisor
Office of Petitions

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900 SECOND AVENUE SOUTH
SUITE 820
MINNEAPOLIS, MN 55402

Mail Date: 04/21/2010

Applicant	: Andrea Crisanti	: DECISION ON REQUEST FOR
Patent Number	: 7611669	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/181,620	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/24/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **789** 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.

30 SEP 2003

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ALEXANDRIA, VA 22314

In re Application of HUBER et al.	
Application No.: 10/181,623	
PCT No.: PCT/DE01/04406	DECISION ON PETITION
Int. Filing: 21 November 2001	
Priority Date: 23 November 2000	UNDER 37 CFR 1.47(a) and
Attorney Docket No.: R 39697	
For: METERING VALVE	STATUS Under 37 CFR 1.42

This is a decision on applicant's petition under 37 CFR 1.47(a) and a request for status under 37 CFR 1.42, filed in the United States Patent and Trademark Office (USPTO) on 06 August 2003. Per their authorization, the $130 petition fee will be charged to applicants' deposit account.

10/03/2003 MKAYPAGH 00000154 072100 10181623

01 FC:1460 130.00 DA

BACKGROUND

On 21 November 2001, applicant filed international application No. PCT/DE01/04406 which claimed priority of 23 November 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 30 May 2002.

No Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the twenty-month period for paying the basic national fee in the United States expired at midnight on 23 July 2002.

On 18 July 2002, applicant filed a transmittal letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. § 371. Filed with the Transmittal Letter was, *inter alia*, the requisite basic national fee, unexecuted declaration and surcharge for filing the oath or declaration after the twenty month period.

On 16 September 2002, a Notification of Missing Requirements (FORM PCT/DO/EO/905) was mailed to applicant indicating that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) was required.

On 17 March 2003, in response to the Notification of Missing Requirements, applicant filed an executed declaration. The declaration did not meet the requirements of 37 CFR 1.497 since the declaration was not executed by the heirs/ legal representatives of the deceased inventor, Alexander Moell. Applicant also filed a four month extension of time, which is now granted.

On 08 July 2003, a Notification of Defective Response was mailed to applicant indicating that the heirs of Alexander Moell had not executed a declaration in compliance with 37 CFR 1.497(b), which was required. Applicants were given a one month period of time within which to respond.

On 06 August 2003, applicants filed the instant petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4). The petition requested the acceptance of the application without the signatures of Helmut and Brigitte Moell, heirs of deceased inventor Alexander Moell. Applicant alleges that the heirs refuse to sign the application. The petition included authorization to charge the requisite petition fee, a statement of facts regarding Helmut Moell's refusal to sign and a declaration of duplicate pages, signed by the 37 CFR 1.47(a) applicants.

DISCUSSION

37 CFR 1.47 applies where a known legal representative of a deceased inventor cannot be found or reached after diligent effort, or refuses to make application. (see MPEP § 409.03(e)). In the instant case, Petitioner alleges that Helmut and Brigitte Moell, the heirs of deceased inventor Alexander Moell, refuse to sign the application.

A petition under 37 CFR §1.47(a) must be accompanied by (1) the fee under 37 CFR §1.17(h), (2) factual proof that the non-signing joint inventor(s) refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the non-signing inventor(s), and (4) an oath or declaration by each available joint inventor on his or her own behalf and on behalf of the non-signing joint inventor(s).

Item (1) is satisfied with the payment of the $130 petition fee. Item (3) is satisfied because the last known address of non-signing heirs, Helmut and Brigitte Moell is provided.

With respect to item (2), Petitioner states:

> On March 3, 2003, I called him [Helmut Moell] again in the afternoon, in the presence of Dr. Glatzer, and I asked Mr. Helmut Moell whether we could send him documents again that should be signed, including an envelope and a stamp. Mr. Helmut Moell clearly denied and told me on the phone that he would not sign anything anymore. Few weeks later I again called him whether I could come and visit him personally to present the documents to be signed. Mr. Helmut Moell refused again and confirmed his attitude.

This is sufficient evidence as to Helmut Moell's refusal to sign the application; however, it does not demonstrate Brigitte Moell's refusal to sign the application. In fact, applicant has not provided any indication regarding Brigitte Moell's unavailability or refusal to sign the application. Petitioner should attempt to contact Ms. Moell via telephone, place of employment or last known residence to ascertain her position regarding signing the application. Further attempts to contact Ms. Moell via telephone, E-mail, last known address, place of employment, etc. should be tried, documented and presented in a statement by someone having first hand knowledge of the attempts to obtain her signature on the application. Thus, item (2) is not satisfied.

Item (4) above is not satisfied. The declaration was executed by the available joint inventors on their behalf and that of the deceased inventor, Alexander Moell. A review of the declaration/power of attorney indicates that the declaration submitted on 17 March 2003 that the declaration is not in an acceptable form for two reasons. First, the declaration submitted contains two identical sheets of page 3, identifying the same inventors but executed by different inventors. Specifically, there is an issue as to whether the declaration has been properly executed. The declaration filed with the petition includes a duplicate sheet of page 3 of 4. It is unclear if the inventors were presented with only page 3, in which case the execution would be improper, or if they were presented with a complete declaration for signing, but counsel subsequently compiled

the declaration into the single document filed 17 March 2003, which is improper. (See MPEP 201.03.) While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. By providing only a partial declaration, it is not clear what inventive entity was listed on the declaration signed by each co-inventor. Applicants must submit the complete declaration signed by each co-inventor.

Second, 37 CFR 1.497(b)(2) requires the declaration to *state the relationship* of the person(s) (under 37 CFR 1.42) making the declaration for a deceased inventor and *state the citizenship, residency and mailing address* of the heir(s)/legal representative as well as that of the deceased inventor. The declaration appears to provide the citizenship, residency and last known mailing address for the deceased inventor but does not include this information for both of his legal representatives/heirs as required by 37 CFR 1.497(b)(2).

In sum, Items (2) and (4) above are not satisfied. Petitioner has not demonstrated that Brigitte Moell, one of the heirs of Alexander Moell, refuses to sign. For the reasons set forth above, the declaration submitted 17 March 2003 does not comply with 37 CFR 1.497 and is unacceptable. Accordingly, it is inappropriate to accord the national stage application status under 37 CFR §1.47(a) at this time. The request for status under 37 CFR 1.42 is also refused at this time.

CONCLUSION

The petition under 37 CFR §1.47(a) is **DISMISSED WITHOUT PREJUDICE**. The request for status under 37 CFR 1.42 is **DISMISSED WITHOUT PREJUDICE**.

Any reconsideration on the merits of the petition under 37 CFR §1.47(a) must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR §1.47(a)." No petition fee is required. Any further extensions of time available may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT Legal, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467

20 MAY 2004

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HELMUT MOELL
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In re Application of HUBER et al.	DECISION ON
Application No.: 10/181,623	
PCT No.: PCT/DE01/04406	RENEWED PETITION
Int. Filing: 21 November 2001	
Priority Date: 23 November 2000	UNDER 37 CFR 1.47(a) and
Attorney Docket No.: R 39697	
For: METERING VALVE	STATUS Under 37 CFR 1.42

Dear Mr. Moell:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. § 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: (703) 306-5467

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20 MAY 2004

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ALEXANDRIA, VA 22314

In re Application of HUBER et al.	DECISION ON
Application No.: 10/181,623	
PCT No.: PCT/DE01/04406	RENEWED PETITION
Int. Filing: 21 November 2001	
Priority Date: 23 November 2000	UNDER 37 CFR 1.47(a) and
Attorney Docket No.: R 39697	
For: METERING VALVE	STATUS Under 37 CFR 1.42

This is a decision on applicant's renewed petition under 37 CFR 1.47(a) and a request for status under 37 CFR 1.42, filed in the United States Patent and Trademark Office (USPTO) on 29 March 2004. Applicant also requests a four month extension of time, which is granted.

BACKGROUND

On 06 August 2003, applicants filed a petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4). The petition requested the acceptance of the application without the signatures of Helmut and Brigitte Moell, heirs of deceased inventor Alexander Moell. Applicant alleges that the heirs refuse to sign the application. The petition included authorization to charge the requisite petition fee, a statement of facts regarding Helmut Moell's refusal to sign and a declaration of duplicate pages, signed by the 37 CFR 1.47(a) applicants.

On 30 September 2003, a decision dismissing applicant's petitions indicated that petitioner had not demonstrated heir Brigitte Moell's unavailability or refusal to sign the application and that petitioner had not provided a declaration in compliance with 37 CFR 1.497(a) & (b).

On 29 March 2004, Petitioner filed the instant renewed petition under 37 CFR 1.47(a) and 1.42 along with a request for a four month extension of time, a statement of facts under 37 CFR 1.47(a) and newly executed declarations.

DISCUSSION

37 CFR 1.47 applies where a known legal representative of a deceased inventor cannot be found or reached after diligent effort, or refuses to make application. (see MPEP § 409.03(e)).

In the instant case, Petitioner alleges that Helmut and Brigitte Moell, the heirs of deceased inventor Alexander Moell, refuse to sign the application.

A petition under 37 CFR §1.47(a) must be accompanied by (1) the fee under 37 CFR §1.17(h), (2) factual proof that the non-signing joint inventor(s) refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the non-signing inventor(s), and (4) an oath or declaration by each available joint inventor on his or her own behalf and on behalf of the non-signing joint inventor(s).

Petitioner previously satisfied Items (1) and (3).

With respect to item (2), Petitioner now provides a "Statement of Facts Regarding Refusal to Sign of Heir Brigitte Moell" by Georg Mueller, Director of the Corporate Patent Department Mechanics, German and European Patent Attorney. Mr. Mueller states in pertinent part,:

> One of my phone calls was answered by Mrs. Brigitte Moell. When I told her the reason for my call, she told me that she did not want to deal with this issue and passed the phone to her husband. During this phone call, Mr. Moell made it clear that neither he or his wife were willing to sign the documents and that they did not want to be approached in this matter any longer.

This is sufficient evidence as to Brigitte Moell's refusal to sign the application. Thus, item (2) is now satisfied.

Item (4) above is now satisfied. Newly executed declarations by the available joint inventors on their behalf and that of the deceased inventor Alexander Moell were provided with the renewed petition. A review of these declarations indicates that the declarations are now acceptable and in compliance with 37 CFR 1.497(a) & (b).

37 CFR 1.497(b)(2) requires the declaration to state the relationship of the person(s) (under 37 CFR 1.42) making the declaration for a deceased inventor and state the citizenship, residency and mailing address of the heir(s)/legal representative as well as that of the deceased inventor. The declaration appears to provide the citizenship, residency and last known mailing address for the deceased inventor and this information for both of his legal representatives/heirs as required by 37 CFR 1.497(b)(2).

In sum, Petitioner has demonstrated that Helmut and Brigitte Moell, the heirs of Alexander Moell, refuse to sign. For the reasons set forth above, the declaration submitted 29 March 2004 complies with 37 CFR 1.497 and is acceptable. Accordingly, it is appropriate to accord the national stage application status under 37 CFR §1.47(a). The request for status under 37 CFR 1.42 is granted.

CONCLUSION

For the above reasons, the petition under 37 CFR §1.47(a) is **GRANTED**. Applicant's request for status under 37 CFR 1.42 is also **GRANTED**.

The U.S. Designated/Elected Office is authorized to accept the application as a 37 CFR 1.47(a) application using the declarations filed 29 March 2004 and to mail a filing receipt. The application has an international filing date of 21 November 2001 under 35 U.S.C. 363, and a date of 29 March 2004 under 35 U.S.C. 371(c).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventors at their respective last known address of record. Also, a notice of the filing of this application will be published in the Official Gazette.

The application is being returned to the United States Designed/Elected Office (DO/EO/US) for processing as the U.S. National Stage of the above-identified international application.

Cynthia M. Kratz
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Commissioner for Patents
United States Patent and Trademark Office
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OFFICE OF THE DIRECTOR
TC 3600

Attn: Steven H. Stephen
Greigg & Greigg, P.L.L.C.
1423 Powhatan Street, Suite One
Alexandria, VA 22314

In re Application of:	:	
Dominke et al.	:	**DECISION ON PETITION TO**
Application No. 10/181625	:	**REVIEW RESTRICTION**
Filed: October 28, 2002	:	**REQUIREMENT UNDER**
Attorney Docket No. R.38108	:	**37 CFR 1.144**

This letter is in response to a Petition under 37 CFR 1.144 for review of Examiner's restriction requirement received August 13, 2004, and again December 6, 2004.

The petition is **DISMISSED**.

A careful review has been made of the point raised by petitioner with respect to the election of species and whether independent claims 13 and 14 should be considered generic. The following is a detailed discussion.

A review of the record indicates that the examiner required an election of species on August 18, 2003, between two different braking device embodiments represented by figures 3a-3c and 4a-4c. At that time the examiner indicated that claims 24-27 read on the species of figs 3a-3c, claims 20-23 read on the species of figs. 4a-4c and claims 13-19, 28-32 appeared to be generic.

Petitioner submitted an election letter on September 10, 2003, electing the species represented by figs. 3a-3c and claims 24-27. No comments traversing the election of species were provided at that time. Therefore, Petitioner lost the right to petition the restriction requirement.

However, upon further review of the Office action sent out November 5, 2003, acknowledging the election letter it was noted that the Examiner changed the restriction requirement by determining that independent claims 13 and 14 were not generic to both species because they made mention of a rotor and stator, and that such structures only appeared in the second species shown in figs. 4a-4c. This shift in the restriction altering what claims were generic in essence was a new restriction requirement.

The Petitioner submitted an amendment and request for reconsideration on February 4, 2004, stating that the explanation for figure 2 discussed a steering wheel actuator 9 as having a rotor 43 and a stator 42.

The examiner, in return, sent a final action April 13, 2004, stating that such an explanation was not found to be contained in the specification of record with respect to figure 2 and that only the description for the embodiment shown in figs. 4a-4c disclose a rotor 43 and a stator 42.

Petitioner then filed the above noted Petitions requesting review.

The specification of record has been reviewed and there does not appear to be any description other than the one associated with figures 4a-4c that mention rotor 43 and stator 42. Furthermore, only figures 4a-4c specifically show such structures. Thus the independent claims 13 and 14 are maintained to be non-generic.

For the foregoing reasons, the examiner's determination that there were currently no generic claims with respect to the election of species was proper.

Robert Oberleitner, Director
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Kurt R Ganderup
U S Borax
26877 Tourney Road
Valencia, CA 91355-1847

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OFFICE OF PETITIONS

In re Application of :
David M. Schubert :
Application No. 10/181,628 : ON PETITION
Filed: July 19, 2002 :
Attorney Docket No. USB-413 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed September 16, 2004, to accept an unintentionally delayed claim under 35 U.S.C.§ 119(e) for the benefit of prior-filed provisional Application No. 60/177,467, filed January 21, 2000.

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000.

Petitioner has submitted an amendment to add a new paragraph to the specification immediately following the title to include a reference to prior-filed provisional Application No. 60/177,467, filed January 21, 2000.

The instant pending nonprovisional application was filed on July 19, 2002, and was pending at the time of filing of the instant petition. While a reference to the prior-filed provisional application was not included in an ADS or in the first sentence of the specification following the title, reference nevertheless was made in the papers submitted with the above-identified application.

The current procedure where a claim for priority under 37 CFR 1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late

claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR 1.78(a)(5). However, on the other hand, if the USPTO does not note the claim for priority to the provisional application in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR 1.78(a)(6).[1] In the instant case, the Office noted the claim for priority of provisional Application No. 60/177,467 in the papers filed with the application, as shown by its inclusion on the filing receipt.

In view of the above, the petition is unnecessary and no petition fee will be charged to petitioner's deposit account.

Any questions concerning this decision on petition may be directed to Sherry Brinkley at (571) 272-3204. All other inquiries concerning the status of the application should be directed to the Office of Publications.

Sherry D. Brinkley
Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Frances Hicks
Frances M. Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] Note 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

18 APR 2003

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Box 457
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In re Application of	:	
OTVOS, Laszlo, et al.	:	
U.S. Application No.:10/181,654	:	
PCT No.: PCT/US01/01812	:	DECISION
International Filing Date: 19 January 2001	:	
Priority Date: 21 January 2000	:	
Attorney's Docket No.: WST94BUSA	:	
For: BIOCIDAL MOLECULES,	:	
MACROMOLECULAR TARGETS AND	:	
METHODS OF PRODUCTION AND USE	:	

This decision is issued in response to applicants' "Request For Correction Of Filing Receipt" filed 21 October 2002. No petition fee is required.

BACKGROUND

On 19 January 2001, applicants filed international application PCT/US01/01812 which claimed a priority date of 21 January 2000 and which designated the United States.

On 14 August 2001, a Demand was filed with the International Preliminary Examining Authority electing the United States. The election was made prior to the expiration of nineteen months from the priority date. As a result, the deadline for payment of the basic national fee was extended to expire thirty months from the priority date, i.e., 21 July 2002.

On 19 July 2002, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee and a declaration executed by two of the four inventors.

On 26 September 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Acceptance that identified 19 July 2002 as the 35 U.S.C. 371 date and a filing receipt that identified 19 July 2002 as the filing date, only listed two of the four inventors, and did not reference the priority claims in the international application.

On 27 September 2002, applicants filed a declaration executed by the remaining two inventors, as well as the $65 small entity surcharge for filing the declaration later than thirty months after the priority date.

On 21 October 2002, applicants filed the "Request For Correction Of Filing Receipt" considered herein, with accompanying materials. This submission requests that a new filing receipt be issued which correctly identifies all of the inventors and priority claims, and it points out that the Notification Of Acceptance misidentifies 19 July 2002 as the date of receipt of the 35 U.S.C. 371 requirements.

DISCUSSION

A review of the application file confirms that, as indicated by applicants, the Notification Of Acceptance and filing receipt mailed 26 September 2002 were issued in error, prior to applicants' completion of the 35 U.S.C. 371 requirements on 27 September 2002. Accordingly, the Notification Of Acceptance and filing receipt mailed 26 September 2002 are hereby vacated.

The declaration filed by applicants on 27 September 2002 (in combination with the declaration filed 19 July 2002) completed the requirements of 35 U.S.C. 371.

Accordingly, a corrected Notification Of Acceptance will be issued identifying 27 September 2002 as the date of receipt of the 35 U.S.C. 371 requirements.

In addition, a corrected filing receipt will be issued which identifies the filing date as 27 September 2002 (the "filing date" listed on the filing receipt in a national stage application is the 35 U.S.C. 371 date) and which also includes the complete inventorship and priority information requested by applicants and set forth in the filed declaration.

CONCLUSION

Applicants' request for correction of the filing receipt is **GRANTED**.

The Notification Of Acceptance and filing receipt mailed 26 September 2002 are **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including: (1) the mailing of a new Notification Of Acceptance which identifies the 35 U.S.C. 371 date as 27 September 2002; and (2) the issuance of a corrected filing receipt that identifies the filing date as

27 September 2002, lists all four inventors (i.e., Laszlo OTVOS, Magdalena BLASZCZYK-THURIN, Mark ROGERS, and Sandor LOVAS), and sets forth all the relevant priority data (i.e., the international application and the two priority claims made therein).

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16 DEC 2002

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#10

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Norman D Hanson
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In re Application of JAGER et al. Serial No.: 10/181,663 PCT No.: PCT/US00/42334 Int. Filing Date: 29 November 2000 Priority Date: 30 November 1999 Attorney's Docket No.: LUD 5615.2 PCT For: ISOLATED NUCLEIC ACID MOLECULES ENCODING CANCER ASSOCIATED ANTIGENS, THE ANTIGENS PER SE, AND USES THEREOF	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 19 July 2002 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the basic national fee of $710 has been paid. The required petition fee of $1280 has also been paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing including issuance of a Notification of Missing Requirements indicating that an oath or declaration executed by the inventors is required.

Cynthia M. Kratz

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17 NOV 2003

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In re Application of JAGER et al. Application No.: 10/181,663 PCT No.: PCT/US00/42334 Int. Filing Date: 29 November 2000 Priority Date: 30 November 1999 Attorney Docket No.: LUD 5615.2 PCT For: ISOLATED NUCLEIC ACID MOLECULES ENCODING CANCER ASSOCIATED ANTIGENS, THE ANTIGENS PER SE, AND USES THEREOF	DECISION ON REQUEST UNDER 37 CFR 1.497(d)

This is a decision on applicants' "Response to Notification of Defective Response" pursuant to 37 C.F.R. 1.497(d) filed on 22 September 2003 in the United States Patent and Trademark Office (USPTO). Petitioner seeks to add Elke Jager as an inventor in the above referenced application. The requisite $130 fee and the $130 surcharge for filing the declaration after the 30 month period was provided.

BACKGROUND

On 29 November 2000, applicants filed international application PCT/US00/42334, which claimed priority of an earlier U.S. application filed 30 November 1999, designating the United States. On 11 May 2001, a Demand for international preliminary examination electing the United States was filed prior to the expiration of 19 months from the priority date. Accordingly, the thirty month period for paying the basic national fee in the United States expired at midnight on 30 May 2002.

On 18 July 2002, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee. On 19 July 2002, applicant filed a petition to revive the unintentionally abandoned international application, which was granted on 16 December 2002.

On 10 February 2003, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and either 37 CFR 1.66 or 1.68 was required. On 24 February 2003, applicants filed a response to the Notification of Missing Requirements along with a declaration signed by the joint inventors as listed on the international application publication and by a Elke Jager, who was not identified on the published international application.

On 19 August 2003, a Notification of Defective Response (Form PCT/DO/EO/916) was mailed to applicants, indicating the declaration of the inventors did not comply with 37 CFR 1.497(a) and (b) in that the "declaration [was] executed by inventor not listed on the International Application."

On 22 September 2003, applicant filed a response to the Notification of Defective Response to add inventor Elke Jager, treated as a request to correct inventorship under 37 CFR 1.497(d).

DISCUSSION

Where the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and 37 CFR 1.497(d) names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by: (1) a statement from each person being added as an inventor that any error in inventorship occurred without deceptive intention on his or her part; (2) the fee set forth in § 1.17(i); and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee(s).

Applicant provided a declaration signed by joint inventor, Elke Jager, indicating that error in inventorship occurred without deceptive intent and the petition fee, satisfying items (1) and (2) above. With regard to the written consent of assignees, Ludwig Institute Cancer Research provided a such consent. However, it appears from USPTO records that Cornell Research Foundation, Inc. is also an assignee yet the written consent of Cornell was not provided and is required.

Pursuant to 35 U.S.C. 371(c)(4) and 37 CFR 1.497(d), the written consent of the assignee(s) is required to correct the inventorship. *See MPEP 201.03 D. Written Consent of Assignee.* As stated in MPEP §201.03 (Rev. Feb. 2003, p.200-8), the individual signing on behalf of the assignee giving its consent to the requested inventorship correction, should specifically state that he or she has the authority to act on behalf of the assignee. In the absence of such a statement, the consent will be accepted if it is signed by an appropriate official of the assignee (e.g., president, vice president, secretary, treasurer, or derivative thereof) if the official's title has been made of record. A general statement of authority to act for the assignee, or on the specific matter of consent, or the appropriate title of the party signing on behalf of the assignee should be made of record in the consent.

Furthermore, copies of the assignments executed by the original named inventors were not provided with the 22 September 2003 submission. Documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment submitted for recording) is required or in lieu of the assignments, by specifying (*e.g.*, reel and frame number) where such evidence is recorded in the Office is required. The submission establishing ownership must be signed by a party authorized to act on behalf of the assignee. *See* 37 CFR 3.73. Therefore, applicant has not met all of the requirements under 37 CFR 1.497(d) for correction of inventorship.

CONCLUSION

The request under 37 CFR 1.497(d) is **DISMISSED WITHOUT PREJUDICE**. Applicant has **TWO (2)** months to file a response. Extensions of time may be obtained under 37 CFR 1.136(a). The application will be held in the PCT Legal Office to await the proper reply.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Cynthia M. Kratz

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12 DEC 2003

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In re Application of JAGER et al. Application No.: 10/181,663 PCT No.: PCT/US00/42334 Int. Filing Date: 29 November 2000 Priority Date: 30 November 1999 Attorney Docket No.: LUD 5615.2 PCT For: ISOLATED NUCLEIC ACID MOLECULES ENCODING CANCER ASSOCIATED ANTIGENS, THE ANTIGENS PER SE, AND USES THEREOF	DECISION ON RENEWED REQUEST UNDER 37 CFR 1.497(d)

This is a decision on applicants' "Response to Decision" pursuant to 37 C.F.R. 1.497(d) filed on 01 December 2003 in the United States Patent and Trademark Office (USPTO). Petitioner seeks to add Elke Jager as an inventor in the above referenced application. The requisite $130 fee and the $130 surcharge for filing the declaration after the 30 month period were previously provided.

BACKGROUND

On 10 February 2003, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and either 37 CFR 1.66 or 1.68 was required. On 24 February 2003, applicants filed a response to the Notification of Missing Requirements along with a declaration signed by the joint inventors as listed on the international application publication and by a Elke Jager, who was not identified on the published international application.

On 19 August 2003, a Notification of Defective Response (Form PCT/DO/EO/916) was mailed to applicants, indicating the declaration of the inventors did not comply with 37 CFR 1.497(a) and (b) in that the "declaration [was] executed by inventor not listed on the International Application."

On 22 September 2003, applicant filed a response to the Notification of Defective Response to add inventor Elke Jager, treated as a request to correct inventorship under 37 CFR 1.497(d).

On 17 November 2003, a decision dismissing applicant's request was mailed indicating while the written consent of assignee, Ludwig Institute Cancer Research, had been provided, the written consent of assignee, Cornell Research Foundation, Inc. was required.

DISCUSSION

Where the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and 37 CFR 1.497(d) names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by: (1) a statement from each person being added as an inventor that any error in inventorship occurred without deceptive intention on his or her part; (2) the fee set forth in § 1.17(i); and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee(s).

Applicant previously satisfied items (1) and (2) above.

With regard to Item (3) above, the written consent of assignees, Ludwig Institute Cancer Research and Cornell Research Foundation, Inc., have now been provided along with a copy of an executed assignment submitted for recording and specifying the reel and frame number where such evidence is recorded in the Office. Therefore, applicant has now met all of the requirements under 37 CFR 1.497(d) for correction of inventorship.

CONCLUSION

For the reasons discussed above, the submission under 37 CFR 1.497(d) to add Elke Jager as a co-inventor is hereby **GRANTED**.

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c) date is **24 February 2003.**

Cynthia M. Kratz
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PCT Legal Office

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/5/07

TO SPE OF : ART UNIT 3752

SUBJECT : Request for Certificate of Correction on Patent No.: 6991183

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:

AU 3752

SPE | **Art Unit**

20 FEB 2004

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In re Application of	:	
HENRY	:	
Application No.: 10/181,680	:	
Filing Date: July 17, 2002	:	DECISION
Attorney's Docket No.: DAVI171.001CP1	:	
For: CLAMPS	:	

This application is before the PCT Legal Staff for consideration of matters arising under 35 U.S.C. 371.

BACKGROUND

On 15 January 2001, applicant filed international application PCT/USAU01/0036, which claimed priority of two earlier Australian applications filed 17 January 2000 and 25 July 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 26 July 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 15 August 2001, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 17 July 2002.

On 17 July 2002, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia,: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); and a preliminary amendment.

On 09 September 2002, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration as required by 35 U.S.C. 371(c)(4) and the surcharge for filing the oath or declaration later than 30 months from the priority date as required by 37 CFR 1.492(e) must be filed. The notification set a two-month time limit in which to respond.

On 13 December 2002, applicant filed a declaration, the required surcharge for filing the oath or declaration later than 30 months from the priority date and the fee and petition for a one-month extension of time. The papers were accompanied by a certificate of mailing dated 09 December 2002.

On 11 February 2003, the United States Designated/Elected Office mailed a Notification of Acceptance of Application under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903).

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 PTO 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.
>
> * * *
>
> If there are any conflicting instructions as to which sections of the statute (371 or 111) is intended the application will be accepted under 35 U.S.C. 111.

The transmittal letter filed on 17 July 2002 identified the application as "a filing under 35 U.S.C. 371." However, the preliminary amendment amended the first line of the specification to read as "This application is a continuation-in-part application and claims the benefit of the Australian provisional patent applications PS0114/02 filed January 23, 2002, PQ8989/00 filed July 25, 2000, and PQ5099/00 filed January 17, 2000 and is a National Phase Application of the International Application PCT/AU01/00036 filed January 15, 2001." Applicants' reference to the papers as a continuation-in-part application of an application filed after the international filing date in the first sentence of the specification is inconsistent with the transmittal letter filed 27 July 2002 and contradicts the request in the transmittal letter to file under 35 U.S.C. 371. The transmittal letter used by applicant is to be used only with submissions under 35 U.S.C. 371. Since applicants gave conflicting instructions, the papers should have been considered as having been filed under 35 U.S.C. 111(a). Accordingly, the original papers deposited on 17 July 2002 were improperly accepted as a submission under 35 U.S.C. 371. Therefore, the Notification of Acceptance mailed 11 February 2003 is hereby VACATED. The application is deemed to have been filed under 35 U.S.C. 111(a).

Applicant is entitled to claim benefit under 35 U.S.C. 120 and 365(c) of the filing date of the international application for the common subject matter, since this application (Serial No. 10/181,680) and the international application (PCT/AU01/00036) designating the United States were copending on 17 August 2002. In order to obtain benefit of the earlier international application,

applicant must amend the beginning of the specification of this application by inserting a proper reference to the parent international application. An appropriate passage would be, "This application is an continuation-in-part of international application PCT/AU01/00036, filed 15 January 2001, which designated the United States and is now abandoned." Under these circumstances, applicant will not be required to file a petition and fee under 37 CFR 1.78(a)(3) to file an unintentionally delayed benefit claim under 35 U.S.C. 120 and 365(c). However, if applicant does not correct the benefit claim, applicant will not be entitled to claim benefit of the international application.

CONCLUSION

This application is accepted as an application filed under 35 U.S.C. 111(a) with a filing date of 17 July 2002.

This application is being forwarded to the National Stage Processing Branch of the International Division for processing in accordance with this decision, that is for (1) removal of the papers communicated from the International Bureau to the United States Patent and Trademark Office concerning international application PCT/AU01/00036, (2) correction of information in PALM (computer database) and (3) correction of fees. Afterwards, the application will be forwarded to the Office of Initial Patent Examination for processing as a national application filed under 35 U.S.C. 111(a) with a filing date of **17 July 2002**.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration

LES:ls

Telephone: (703) 308-6461
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AUG 3 0 2004

OFFICE OF PETITIONS

MUSERLIAN AND LUCAS AND MERCANTI
475 PARK AVENUE SOUTH
NEW YORK NY 10016

In re Application of :
Hajime Sakamoto et al :
Application No. 10/181,682 : ON PETITION
Filed: July 17, 2002 :
Attorney Docket No. TASH-4 :

This is a decision on the petition, filed August 27, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 4, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

The examiner of Technology Center AU 2827 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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OFFICE OF PETITIONS

CANAANLAW, P.C.
3723 HAVEN AVE., STE 130
MENLO PARK CA 94025

In re Application of	:	
Alan W. WHEELER, et al	:	
Application No. 10/181,684	:	DECISION ON PETITION
Filed: November 19, 2002	:	TO WITHDRAW
Attorney Docket No. 18AT-138086	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed October 23, 2009.

The request is **NOT APPROVED**.

The Office will no longer approve requests from practitioners to withdraw from applications where the requesting practitioner is acting, or has acted, in a representative capacity pursuant to 37 CFR 1.34. In these situations, the practitioner is responsible for the correspondence the practitioner files in the application while acting in a representative capacity. As such, there is no need for the practitioner to obtain the Office's permission to withdraw from representation. However, practitioners acting in a representative capacity, like practitioners who have a power of attorney in the application, remain responsible for noncompliance with 37 CFR 1.56, as well as 37 CFR 10.18, with respect to documents they file.

A review of the file record indicates that Daniel C. Kloke does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6735.

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: DANIEL C. KLOKE
SHEPPARD, MULLIN, RICHTER
& HAMPTON LLP,
990 MARSH ROAD
MENLO PARK CA 94025

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PRICE HENEVELD COOPER DEWITT & LITTON, LLP
695 KENMOOR, S.E.
P O BOX 2567
GRAND RAPIDS MI 49501

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OFFICE OF PETITIONS

ON PETITION

In re Patent No. 6,795,255 :
Issue Date: September 21, 2004 :
Application No. 10/181,700 :
Filed: October 29, 2002 :
Attorney Docket No. QUE04 P-314 :

This is a decision on the petition filed November 19, 2004, under 37 CFR 1.183, to waive the rules of 37 CFR 3.81(a) and accept the correction of the assignee on the front page of the above-identified patent. This decision is also rendered in response to the request for certificate of correction, pursuant to 37 CFR 1.323.

The petition under 37 CFR 1.183 is **GRANTED**.

The request for a certificate of correction under 37 CFR 1.323 is **GRANTED**.

Assignment data printed on the patent is based solely on the information so supplied on the Issue Fee Transmittal Form (PTOL-85B). A review of the record indicates that the Issue Fee Transmittal Form (PTOL-85B), submitted January 12, 2004 failed to identify the second assignee.

In accordance with the request, and as the request agrees with Office assignment records, the information for the second assignee will be added/corrected on the face of the patent as follows:

Assignee: Dr.-Ing. Wolfgang Reinecke Ingenieurbüro für Optik-Entwicklung
Berlin (DE)

The fees for the petition ($130.00) and for the certificate of correction ($100.00) have been applied.

This file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/10/04

TO SPE OF : ART UNIT 1773

10/181,750

SUBJECT : Request for Certificate of Correction on Patent No.: 6,783,857

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance.

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

_____

_____

_____

_____

_____

SPE

1773
Art Unit

09 OCT 2002

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Mark Rogers
Speed & Rogers, P.A.
1701 Centerview, Suite 125
Little Rock, AR 72211

In re Application of FASSBENDER, Alexander G. Application No.: 10/181,760 PCT No.: PCT/US01/01011 Int. Filing Date: 11 January 2001 Priority Date: 14 January 2000 Docket No.: TE5306 For: POWER SYSTEM WITH ENHANCED THERMODYNAMIC EFFICIENCY AND POLLUTION CONTROL	DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicant's "Petition For Revival of an International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 22 July 2002 is **GRANTED**.

Applicant states "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," as required by 37 CFR 1.137(b)(3). The appropriate national fee and petition fee have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A declaration in compliance with 37 CFR 1.497(a)-(b) was submitted with the national stage papers.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision. The application has a date of 11 January 2001 under 35 U.S.C. §363 and a date of 22 July 2002 under 35 U.S.C. §371.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

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Oblon, Spivak, McClelland, Maier & Neustadt
1940 Duke Street
Alexandria, VA 22314

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AUG 3 0 2004

OFFICE OF PETITIONS

In re Application of	:	
Hiroshi Shiho, et al.	:	
Application No. 10/181,778	:	ON PETITION
Filed: July 22, 2002	:	
Attorney Docket No. 225630US0PCT	:	

This is a decision on the petition under 37 CFR 1.182, filed May 19, 2004, to change the name of one of the inventors.

The petition is **GRANTED**.

The name of the third inventor has been changed from Sachiko Okada to **Sachiko Hashimoto**.

The application file is being referred to the Publishing Division to be processed into a patent.

Telephone inquiries regarding this decision may be directed to the undersigned at (703) 306-3475.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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MAR 1 8 2005

TECHNOLOGY CENTER 3600

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

IN RE:	Jianzhou Wu et al.	:
SERIAL NO.	10/181,781	: PETITION FOR SUPERVISORY
FILED:	July 22, 2002	: REVIEW UNDER 37 CFR 1.181
DOCKET #	0425-0944P	:
FOR:	GAS GENERATING COMPOSITION CONTAINING TRIAZINE DERIVATIVES	

This is in response to the petition filed on August 6, 2004 for withdrawal of abandonment.

The petition is **GRANTED** to the extent discussed below.

The facts surrounding this petition are correctly outlined on pages 1-2 of applicants petition under the heading "1. Prosecution History".

In the amendment filed on March 8, 2004, applicant amended a number of the pending claims before the examiner. As indicated in the prosecution history outlined by the applicant, this amendment also included (incorrectly) claims 2-4, which were previously cancelled.

The amendment included changes to the claims currently pending before the examiner that clearly could have been considered to be a "submission" under the rules. With respect to the incorrect listing of claims, i.e. the reintroduction of claims 2-4, the procedures at the time would have been to invite the applicant to correct the listing of the claims in the form of a Notice of Non-Compliant Amendment.

As indicated by the petitioner, 37 CFR 1.114(d) indicates that upon the filing of an RCE, any previously filed amendments are to be entered. Once entered, along with the other items required for the filing of an RCE, a filing date for the RCE is established. It would appear that the Office at this time would have sent out a Notice of Non-Compliant Amendment irrespective of what occurred after final. The argument regarding the propriety of the final rejection is considered moot in view of the filing of the RCE and the decision rendered herein.

The petition is **GRANTED**.

Upon mailing of this decision, the application will be forwarded to the technical support staff for withdrawal of the abandonment and then forwarded to an examiner for consideration of the Request for Continued Examination.

Any question concerning this decision should be referred to SPE Michael Carone at 703 306-4198.

Donald Hajec
Director, TC 3600
(703) 306-4180

snm/mjc: 3/8/05
SM

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 17, 2006

TO SPE OF : ART UNIT 1623 (S.P.E. Shaojia Jiang)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/181786 Patent No.: 6,972,289

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**.

Please clearly list what is approved and what is not.

STACY POWELL

Certificates of Correction Branch

703-308-9390 ext. 120

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: the requested changes are appropriate, and thus, approved. No new matter was introduced. PW

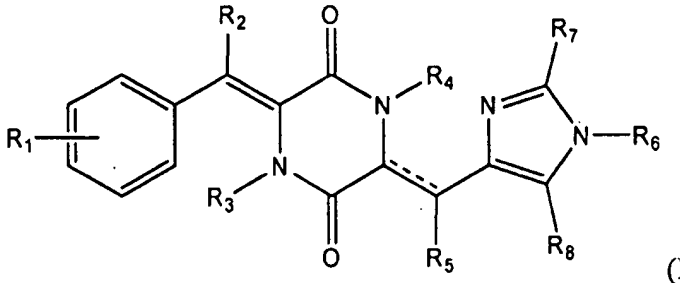
SPE 1624 **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,972,289
APPLICATION NO. : 10/181,786
ISSUE DATE : December 6, 2005
INVENTOR(S) : Kanzaki, et al.

It is certified that an error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 22, lines 1-10 and column 23, lines 5-14, the chemical structure of formula (II) should appear as follows:



(II)

2541756
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MAY 2 2006

MAILING ADDRESS OF SENDER:

Joseph M. Reisman
KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 Main Street, 14th Floor
Irvine, California 92614

DOCKET NO. NEREUS.064NP

PTOSB/44 Equivalent

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DAVID M MAIORANA
JONES DAY REAVIS & POGUE
NORTH POINT
901 LAKESIDE AVENUE
CLEVELAND, OH 44114

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MAY 0 5 2006

OFFICE OF PETITIONS

In re Application of	:	
Carles Puente Baliarda et al	:	
Application No. 10/181,790	:	DECISION ON PETITION
Filed: November 4, 2002	:	TO WITHDRAW
Attorney Docket No. 153454	:	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 22, 2005.

The petition is **NOT APPROVED** as moot.

A review of the file record indicates that the previously appointed power of attorney has been revoked by the assignee. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicants.

This application is being referred to Technology Center AU 2817.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: JENKENS & GILCHRIST, PC
1445 ROSS AVENUE
SUITE 3200
DALLAS, TX 75202

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080626

DATE : June 26, 2008

TO SPE OF : ART UNIT 1633

SUBJECT : Request for Certificate of Correction on Patent No.: 7,141,550

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: /Joseph Woitach/ Art Unit 1633

2 8 MAY 2003

#5

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Richard L. Byrne
700 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219-1818

In re Application of	:	
Hoogenberg	:	
Application No. 10/181,796	:	
PCT No.: PCT/NL01/00009	:	
Int. Filing Date: 09 January 2001	:	DECISION
Priority Date: 24 January 2000	:	
Atty. Docket No.:702-021-021383	:	
For: Torsion Sensor	:	
	:	
	:	

This is in response to the "Letter" filed on 28 April 2003.

BACKGROUND

This international application was filed on 09 January 2001 and claimed earliest priority of an application filed on 24 January 2000. The International Bureau transmitted a copy of the published international application to the USPTO on 26 July 2001. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 24 July 2002.

On 23 July 2002, applicant filed *inter alia* the required basic national fee.

On 17 September 2002, a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an executed oath or declaration of the inventors was mailed to an address which differed from applicant's correspondence address of record.

DISCUSSION

Applicant indicates that the Notification of Missing Requirements was never received. Review of the record reveals that the correspondence address recorded in the electronic records of the USPTO, and the correspondence address printed on the Notification of Missing Requirements, do not correspond with the address appearing on the Transmittal Letter filed on 23 July 2002. As such, it would be appropriate to grant applicant's request.

DECISION

Applicant's request is **GRANTED**.

The Notification of Missing Requirements mailed on 17 September 2002 is hereby **VACATED**.

This application is being forwarded to the National Stage Processing Branch for further processing, including the correction of the electronic records of the USPTO to reflect applicant's correct correspondence address, and the preparation and mailing of a new Notification of Missing Requirements (Form PCT/DO/EO/905), requiring an executed oath or declaration of the inventors, to applicant's correct address.

Applicant is advised that, effective May 1, 2003, the Office is changing its correspondence address. Any further correspondence with respect to this matter deposited with the United States Postal Service on or after May 1, 2003 should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459

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WILLIAM COLLARD
COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN NY 11576

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OCT 1 5 2004

OFFICE OF PETITIONS

In re Patent No. 6,764,557	:	
Issue Date: July 20, 2004	:	
Application No. 10/181,825	:	ON PETITION
Filed: November 5, 2002	:	
Patentee: Reinhard Sanger	:	

This is a decision on the petition filed July 30, 2004, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

Petitioner argues that the error in the assignee data on the patent was a result of USPTO error since the cover page and the recorded assignment correctly reflects the assignee's name as "Vulkan Strahltechnik GmbH". Accordingly, petitioner requests that the assignee's name on the front page of the patent be corrected by way of a Certificate of Correction.

Petitioner's argument is not well taken. Recording of the assignment, or submission of the assignment for recordation as set forth in 37 CFR 3.11 is required for a Patent to issue to an assignee. However, the assignment data printed on the patent is based solely on the information supplied by applicant on the Issue Fee(s)Transmittal form (PTOL -85B). See MPEP § 307.

A review of the Issue Fee(s)Transmittal form (PTOL -85B) submitted for this application reveals that the assignment data provided by applicant reads "Vulcan Strahltechnik GmbH". Nevertheless, petitioner would be entitled to issuance of a Certificate of Correction upon submission of the $100 fee therefor.

The petition is DISMISSED.

[1] *See* Official Gazette of June 22, 2004

This decision is made without prejudice to reconsideration upon the filing of a renewed petition under 37 CFR 3.81(b) (no further petition fee required) and the $100 fee for a Certificate of Correction.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop PETITION
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

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

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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WILLIAM COLLARD
COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN, NY 11576

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DEC 20 2004

OFFICE OF PETITIONS

In re Patent No.: 6,764,557 :
Issued: July 20, 2004 :
Application No.: 10/181,825 : ON PETITION
Filed: November 5, 2002 :
Atty Docket No.: SANGER, R.ET AL-1 PCT :

This is a decision on the renewed petition filed October 21, 2004, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

The file is being referred to the Certificates of Correction Branch for issuance of a Certificate of Correction to correct the name of the assignee to read "**Vulkan Strahltechnik GmbH**" on the first page of the patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3204. Inquiries related to the certificate of correction should be referred to the Certificate of Correction Branch at (703) 305-8309.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

[1] *See* Official Gazette of June 22, 2004

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COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN, NY 11576

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JAN 05 2005

OFFICE OF PETITIONS

In re Patent No.: 6,764,557 :
Issued: July 20, 2004 :
Application No.: 10/181,825 : ON PETITION
Filed: November 5, 2002 :
Atty Docket No.: SANGER, R.ET AL-1 PCT :

The above-identified application has been referred to the Office of Petitions for consideration of a decision mailed October 21, 2004.

A review of the record discloses that on July 30, 2004, a petition under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction was filed. The petition was dismissed in a decision mailed October 15, 2004. In response, on October 21, 2004, a renewed petition under 37 CFR 3.81(b) was filed. While the petition included the correct name of the assignee, the accompanying Certificate of Correction did not agree with the assignment records of the U.S. Patent and Trademark Office. Nonetheless, the renewed petition was granted in a decision mailed December 20, 2004. Consequently, the Certificate of Correction issued naming the wrong assignee.

In order to make the record whole, a new Certificate of Correction has been prepared which reflects the assignee's name in accordance with USPTO assignment records.

The file is being referred to the Certificates of Correction Branch for issuance of a Certificate of Correction to correct the name of the assignee to read "**Vulkan Strahltechnik GmbH**" on the first page of the patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3204. Inquiries related to the certificate of correction should be referred to the Certificate of Correction Branch at (703) 305-8309.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

---

[1] *See* Official Gazette of June 22, 2004

28 FEB 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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Robert Berliner
Fulbright & Jaworski
865 South Figueroa
Twenty Ninth Floor
Los Angeles, CA 90017-2571

In re Application of METZ et al. Application No.: 10/181,833 PCT No.: PCT/EP00/02611 Int. Filing Date: 23 March 2000 Priority Date: 20 January 2000 Attorney's Docket No.: 7211-101US For: AN INSTRUMENT FOR INSERTING A PROSTHESIS HOSE CONNECTION	DECISION ON PAPERS FILED UNDER 37 CFR 1.42

This is a decision on the papers filed on 22 October 2002, which is being treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 23 March 2000, applicants filed international application PCT/EP00/02611, which claimed priority of an earlier German application filed 20 January 2000. A Demand for international preliminary examination was filed on 18 August 2001. Accordingly, the thirty month period for paying the basic national fee for processing in the United States expired at midnight on 20 July 2002.

On 19 July 2002, applicants filed a Transmittal Letter for entry into the national stage in the United States of America. Filed with the Transmittal Letter were, *inter alia*: the basic national fee and English translation of the international application.

On 07 October 2002, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905 indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be furnished within two months from the date of the Notification to avoid abandonment of the application.

On 22 October 2002, applicants filed the present response including a declaration signed by one of the two named inventors. The declaration was also signed by Emma Helga Metz as "wife/heir", and by Katharina Metz and Dietrich Metz as "child/heirs" to the deceased co-inventor Ludwig Metz.

DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

> "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent."

The declaration filed on 22 October 2002 identifies Ludwig Metz as the deceased inventor and identifies Emma Helga Metz as his wife and heir, Katharina Metz as his child and heir, and Dietrich as his child and heir. The declaration is signed by these three heirs respectively.

The declaration is unacceptable for several reasons. First, the declaration indicates the citizenship, residency and mailing address of the deceased inventor but does not provide the citizenship, residency and mailing address of the heirs, which is required under 37 CFR 1.497(b)(2). The new declaration must provide the citizenship, residency and mailing address of the heirs and the citizenship, last known residency and mailing address of the deceased inventor.

Second, it is unclear whether Emma Helga Metz, Katharina Metz and Dietrich Metz are the only heirs of deceased inventor Ludwig Metz.(See MPEP §409.01(a)). That is, there may be other heirs who are required to also sign the declaration. A new declaration must indicate that Emma Helga Metz, Katharina Metz and Dietrich Metz are the only heirs for the deceased to accept the application under 37 CFR 1.42. Alternatively, applicants' attorney may file a statement certifying that Emma Helga Metz, Katharina Metz and Dietrich Metz are the only heirs.

For the reasons stated above, a new declaration is required in compliance with 37 CFR 1.497 and 1.64. Accordingly, it is inappropriate, at this time, to accord the application status under 37 CFR 1.42.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is presently **DISMISSED WITHOUT PREJUDICE.**

If reconsideration of the merits of the request for status under 37 CFR 1.42 is desired, applicant is required to correct the above-noted defects including the furnishing of an oath/declaration in compliance with 37 CFR 1.42 and 1.497 within TWO (2) MONTHS from the mail date of this Decision.

Failure to respond will result in the abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42."

Any further correspondence with respect to this matter should include a cover letter entitled "Renewed Request Under 37 CFR 1.42" and be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

CMK:cmk

Telephone: (703) 306-5467
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26 AUG 2003

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In re Application of METZ et al. Application No.: 10/181,833 PCT No.: PCT/EP00/02611 Int. Filing Date: 23 March 2000 Priority Date: 20 January 2000 Attorney's Docket No.: 7211-101US For: AN INSTRUMENT FOR INSERTING A PROSTHESIS HOSE CONNECTION	DECISION ON RENEWED REQUEST UNDER 37 CFR 1.42

This is a decision on the Renewed Request under 37 CFR 1.42 filed in the United States Patent and Trademark Office (USPTO) on 28 April 2003 and Supplemental Renewed Request under 37 CFR 1.42 filed on 02 May 2003.

BACKGROUND

On 22 October 2002, applicants filed a declaration signed by one of the two inventors named in the international application. The declaration was also signed by Emma Helga Metz as "wife/heir", and by Katharina Metz and Dietrich Metz as "child/heirs" to the deceased co-inventor Ludwig Metz.

On 28 February 2003, a decision on applicant's request was mailed indicating that the declaration was unacceptable as it was not in compliance with 37 CFR 1.497. The new declaration was required to provide the citizenship, residency and mailing address of the heirs and the citizenship, last known residency and mailing address of the deceased inventor.

On 28 April 2003, applicant filed a renewed petition under 37 CFR 1.42 with an unexecuted declaration. Thereafter, on 02 May 2003, applicant filed a supplemental request along with a declaration executed by the all heirs of deceased inventor Ludwig Metz and joint inventor, Andreas Gussmann.

DISCUSSION

The submission filed on 28 April 2003, an unexecuted declaration, was not a proper reply to the 28 February 2003 decision. The submission submitted on 02 May 2003, while a proper reply, was submitted after the two month limit period indicated in the decision. The submission on 02 May 2003 requires a request for a one month extension of time. Applicant has authorized any additional fees may be charged to his deposit account. Given this authorization, the $110 fee will be charged to applicant's deposit account and a request for a one month extension of time is granted.

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01 FC:1251 110.00 DA

The declaration filed on 02 May 2003 identifies Ludwig Metz as the deceased inventor and identifies the only heirs as Emma Helga Metz, wife and heir, Katharina Metz, child and heir, and Dietrich Metz, child and heir. The declaration is signed by these three heirs respectively. The new declaration indicates the citizenship, residency and mailing address of the deceased inventor and provides the citizenship, residency and mailing address of the heirs, which is required under 37 CFR 1.497(b)(2).

The new declaration is in compliance with 37 CFR 1.497 and 1.64. Accordingly, it is appropriate, at this time, to accord the application status under 37 CFR 1.42.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is presently **GRANTED**.

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371 date is **02 May 2003.**

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Rory J. Radding
c/o Morrison & Foerster, LLP
1650 Tysons Boulevard, Ste 300
McLean, VA 22102

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OFFICE OF PETITIONS

In re Application of
Claudio Bellini
Application No. 10/181,835
Filed: October 4, 2002
Attorney Docket No. 8966-091

DECISION ON PETITION

This is a decision on the "Petition for Withdrawal of Holding of Abandonment or, in the Alternative, Petition to Revive Unavoidably Abandoned Application," filed on April 26, 2004. The Office will initially treat the petition to withdraw the holding of abandonment. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for any inconvenience.

The application became abandoned on October 1, 2003, for failure to reply timely to the nonfinal Office action mailed on June 30, 2003, which set a three-month shortened statutory period for reply. A Notice of Abandonment was mailed on April 6, 2004.

In the present petition, the practitioners asserted that the nonfinal Office action of June 30, 2004,[1] was not received.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record indicates no irregularity in the mailing of the nonfinal Office action, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the Office action 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

[1] The attorneys at the law firm of Jones Day previously represented applicant in this matter and filed the present petition. On August 24, 2004, applicant filed a revocation of power of attorney and appointed the law firm of Morrison & Foerster, LLP, to prosecute the application.

must be attached to and referenced in practitioner's statement.[2] For example, if a three-month period for reply was set in the non-received Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt 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).

After reviewing the documents submitted on petition, the Office concludes that the showing of record is sufficient to warrant withdrawal of the holding of abandonment. Attorneys for Jones Day submitted a copy of the docket records where the non-received nonfinal Office action would have been entered had it been received and docketed.[3] The practitioners attested to the fact that a search of the file jacket and docket records indicated that the nonfinal Office action was not received. Furthermore, the practitioners provided an explanation of the docketing system. As applicant has presented the required showing, the petition to withdraw the holding of abandonment is granted.

In view of the evidence presented in support of the contention that the applicant's legal representatives did not receive the original nonfinal Office action of June 30, 2003, **Technology Center Art Unit 3727 shall remail the Office action and restart the period for response.**

As the petition to withdraw the holding of abandonment is granted. The petition under 37 CFR 1.137(a) to revive the above-identified application is dismissed as moot. Accordingly, the $110.00 petition fee is unnecessary and will be refunded to Jones Day's Deposit Account No. 50-3013, as requested in the petition.

This matter is being referred to Technology Center Art Unit 3727 for further action in accordance with the present decision.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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[2] M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

[3] The copy of the docket records listed all of the papers received by Pennie and Edmonds from the USPTO during the relevant period. The USPTO takes official notice of the fact that Pennie and Edmonds merged into Jones Day of 222 East 41st Street, New York, NY in 2004.

26 MAY 2004

#7

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551 FIFTH AVENUE
SUITE 1210
NEW YORK NY 10176

In re Application of MOUTSOKAPAS et al. Application No.: 10/181,853 PCT No.: PCT/DE01/00129 Int. Filing Date: 10 January 2001 Priority Date: 10 January 2000 Attorney Docket No.: 5067-28PUS For: SUPPORTING FRAMEWORK FOR A CRANEWAY	DECISION ON PETITION UNDER 37 CFR 1.181

This is a decision on applicants' "Petition Requesting Acceptance of Documents Filed on July 9, 2002 and September 4, 2002 for Completion of Application" filed in the United States Patent and Trademark Office (USPTO) on 22 March 2004. The response is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 09 July 2002, applicants filed a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371 (Form PTO 1390) along with, *inter alia*, the basic national fee and unexecuted declaration. Applicants allegedly filed the English translation of the international application at this time.

On 04 September 2002, applicants filed an executed declaration, in compliance with 37 CFR 1.497(a) & (b) and the $130 surcharge for filing the declaration after the 30 month period.

On 16 September 2002, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants indicating that the English translation of the international application and the processing fee for filing the translation after the thirty month period was required. Applicants were also advised that the oath or declaration was not in compliance with 37 CFR 1.497, in that the declaration was not executed in accord with either 37 CFR 1.66 or 1.68.

On 22 March 2004, applicants, in response to the Notification of Missing Requirements, filed a copy of postcards bearing a USPTO mail room date-stamped of 09 July 2002 indicating that a verified English translation of the international application was deposited on that date and that on 04 September 2002 the declaration was deposited with the USPTO.

DISCUSSION

A review of the application file reveals that the original declaration filed on 04 September 2002 is located in the application file; however, the English translation of the international application is not located in the file.

A review of the declaration filed on 04 September 2002 indicates that the declaration identifies each inventor, and states the residency, citizenship and mailing address of each inventor and thus, is in compliance with 37 CFR 1.497(a) & (b) and is acceptable. A review of the finance records for 10/181,853 indicates that the $130 surcharge for filing the declaration after the thirty month period was paid on 04 September 2002.

With regard to proof of filing of the English translation of the international application on 09 July 2002, Section 503 of the Manual of Patent Examining Procedure (8th Ed., August 2001)(MPEP) states, in pertinent part,:

> A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

A review of the itemized USPTO postcard receipt date-stamped 09 July 2002 indicates that a verified English translation of the international application was deposited with the USPTO on 09 July 2002. Thus, the evidence submitted is sufficient to establish that an English translation of the international application was received in the USPTO on 09 July 2002. The copy of the English translation of the international application will be accepted in lieu of the originally filed translation.

CONCLUSION

The petition under 37 CFR 1.181 is **GRANTED**.

The copy of the English translation of the international application filed on 22 March 2004 will be accepted in lieu of the translation originally filed on 09 July 2002. The translation is considered to have been filed on 09 July 2002. The declaration submitted on 04 September 2002 is acceptable and meets the requirements of 37 CFR 1.497.

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371 date is **04 September 2002.**

Cynthia M. Kratz

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CHARLES LYON, PHD
PATENT DEPARTMENT
CHOATE, HALL, & STEWART LLP
EXCHANGE PLACE
53 STATE STREET
BOSTON, MA 02109

In re Application of Downham *et. al.*	
Serial No.: 10/181,868	PETITION DECISION
Filed: July 23, 2002	
Attorney Docket No.: 2003882-0004	

This is in response to the Petition for review of an improper restriction requirement under 37 CFR 1.144 filed September 14, 2004 and a Petition for Withdrawal of that petition , under 37 CFR 1.181, filed February 11, 2005.

BACKGROUND

A review of the file history shows that the Examiner mailed an Office Action to Applicants containing a Final Restriction Requirement, on June 9, 2004. In response to that Office Action, Applicants filed a Petition ("Petition 1") under 37 CFR 1.144, on September 14, 2004. Before the Office issued a decision on Petition 1, the Examiner mailed a Notice of Allowance to Applicants on November 16, 2004. Applicants, after electing to pay the Issue Fee, filed a Petition for Withdrawal ("Petition 2") of Petition 1 on February 11, 2005, under 37 CFR 1.181.

DISCUSSION

The Examiner wrote a restriction on claims 1-26 in a May 3, 2004 Office Action. However, Applicants noted that claims 1-26 were canceled in a Preliminary Amendment on July 23, 2002. Applicants then applied the Examiner's restriction requirements to claims 27-59 and responded in like fashion. The applied restriction, as noted on page 2 of Applicants' April 30, 2004 Response, meant Group I included claims 27-29(in part), 30-33, 34-39 (in part), 40-43, 44-59(in part) drawn to benzoxazine compounds. Group II included claims 27-29 (in part), 34-39(in part), 44-59(in part) drawn to non-benzoxazine compounds. Applicants elected Group I, and Method A (use as pharmaceuticals), both with traverse.

The Final Restriction Requirement in the June 9, 2004 Office Action indicated that claims 27-59 were pending, claims 53,54,57, and 58 were withdrawn from consideration, and claims 27-42, 44-52, 55, 56, and 59 were rejected. Applicants then filed Petition 1, on September 14, 2004 under 37 CFR 1.144 asking for a rejoining of Groups I and II. The Examiner mailed a Notice of

Allowance to Applicants on November 16, 2004. Subsequently, Applicants filed the instant petition to close prosecution of the case and proceed forward with their application.

In view of the second petition the first petition need not be decided and is DISMISSED as per Applicants' request.

DECISION

Petition 2 is **GRANTED .**

The application will be forwarded to Publications Division for further processing.

Should there be any questions about this decision please contact Jean Vollano, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0648, or by facsimile sent to the general Office facsimile number, 571-273-8300.

Jean F Vollano for

Bruce Kisliuk
Director, Technology Center 1600

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LADAS & PARRY LLP
26 WEST 61ST STREET
NEW YORK NY 10023

MAILED

FEB 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Shimon Yahav	:	DECISION ON PETITION
Application No. 10/181,876	:	
Filed: October 10, 2002	:	
Attorney Docket No. U 014130-1	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed August 30, 2006. The petition was recently forwarded to the Office of Petitions for consideration.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file an Appeal Brief. Applicants filed a Notice of Appeal on December 12, 2005. No Appeal Brief having been filed, the application became abandoned on February 13, 2006. A Notice of Abandonment was mailed on August 11, 2006.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and filed the required reply in the form of an Appeal Brief.

The matter is being forwarded to Group Art Unit 3754 for consideration of the Appeal Brief filed August 30, 2006.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/27/07

TO SPE OF : ART UNIT 2178

SUBJECT : Request for Certificate of Correction on Patent No.: 7197685

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.

- [x] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes do **not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments:

STEPHEN HONG
SUPERVISORY PATENT EXAMINER
SPE

2178
Art Unit

10 JAN 2003

#5

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WASHINGTON, D.C. 20231
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Sughrue Mion, PLLC
2100 Pennsylvania Avenue, N.W.
Washington, DC 20037-3213

In re Application of BILLIOTTE et al	:	
U.S. Application No.: 10/181,888	:	
Int. Application No.: PCT/FR00/03300	:	DECISION ON PETITION
Int. Filing Date: 23 November 2000	:	
Priority Date: 23 November 1999	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.: Q71219	:	
For: ELECTROSTATIC TREATMENT OF	:	
AEROSOLS, DEVICES AND METHOD FOR	:	
PRODUCING SAME	:	

This is in response to applicant's "Petition to Revive Under 37 CFR § 1.137(b)" filed 24 July 2002.

BACKGROUND

On 23 November 2000, applicant filed international application PCT/FR00/03300, which claimed priority of an earlier France application filed 23 November 1999. A copy of the international application was communicated to the USPTO from the International Bureau on 31 May 2001.

International application PCT/FR00/03300 became abandoned as to the United States for failure to timely file the basic national fee.

On 24 July 2002, applicant filed the present petition. The petition states that it is accompanied by a proper response under 35 U.S.C. 371, the petition fee set forth in 37 CFR 1.17(m), and a statement that abandonment of the application was unintentional.

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable

petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required basic national fee under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), the petition states, "the abandonment was unintentional." This statement is interpreted as a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be submitted.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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OFFICE OF PETITIONS

In re Application of
Ernst Keller
Application No. 10/181,900
Filed: July 24, 2002
Attorney Docket No. KELLER 12

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Technology Center AU 3676.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

11 JAN 2005

#11

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MINNEAPOLIS, MN 55344-7704

In re Application of	
SAUERBREY	DECISION ON
US Application No.: 10/181,901	
PCT Application No.: PCT/DE01/00034	
Int. Filing Date: 08 January 2001	PETITION UNDER
Priority Date: 21 January 2000	
Attorney's File Reference: 32226.34	
For: AMPLIFIER OR FILTER CIRCUIT USING "SWITCHED-CAPACITOR" CIRCUITRY, AND METHOD FOR AMPLIFYING OR FILTERING SIGNALS	37 CFR 1.181

This is a decision on applicants' "Petition To Withdraw Holding of Abandonment" filed on 01 October 2004.

BACKGROUND

On 04 October 2002, a Notice to File Missing Parts of Nonprovisional Application (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an executed oath or declaration of the inventors and a translation of the application into English, with a deadline to file the requisite response by 04 December 2002.

On 17 September 2002, applicants filed an executed declaration.

On 26 March 2003, a Notification of Defective Response (Form PCT/DO/EO/916) was mailed to applicants, indicating that applicant's response filed 17 September 2002 is acknowledged but a translation of the application into English must be furnished, with a deadline to file the requisite response by 26 April 2004.

On 29 September 2003, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants, indicating that this international application had become abandoned with respect to the national stage in the United States for failure to timely reply to the Notification of Missing Requirements.

On 01 October 2004, applicants filed the present petition.

DISCUSSION

The petition is accompanied by two postcards receipt date-stamped by the USPTO. One postcard indicates that on 17 September 2002, for this application, the USPTO received, *inter alia*, a declaration. The second postcard indicates that on 27 August 2002, for this application, the USPTO received, *inter alia*, an accurate English translation. The petition further indicates that a copy of each of the documents previously filed on 17 September 2002 and 27 August 2002 is enclosed with the petition.

A review of the application file reveals that all of the papers filed 17 September 2002 and 27 August 2002 are located in the file.

The holding of abandonment is hereby **WITHDRAWN** and the NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) mailed 29 September 2003, is hereby **VACATED**.

DECISION

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **GRANTED.**

Applicant's claim for priority is acknowledged. The application has an international filing date of 08 January 2001 under 35 U.S.C. 363 and a date of 17 September 2002 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being forwarded to the National Stage Processing Branch of the International Division for continued processing.

Nathan Newhouse
PCT Legal Administration Detailee
Telephone: 571-272-6095

Leonard Smith
PCT Legal Examiner
PCT Legal Administration

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ALTERA LAW GROUP, LLC
6500 CITY WEST PARKWAY
SUITE 100
MINNEAPOLIS MN 55344-7704

In re Application of:
Jens SAUERBREY
Serial No.: 10/181,901
Filed: July 19, 2002
Attorney Docket No.: 32226.34

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 timely file a response to the non-final Office action mailed on February 17, 2006. A Notice of Abandonment was mailed on August 25, 2006.

A review of the written record indicates that a proper response to the non-final Office action was previously filed on August 16, 2006, but not matched with the application prior to the mailing of the Notice of Abandonment. The response includes an Amendment with a certification of mailing under 37 CFR § 1.8 attached, a request for a three-month extension of time and the fee. Since the response was timely filed, the abandonment of the application was premature. Therefore, the application was not abandoned in fact.

For the above stated reason, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the examiner for consideration of the response.

Inquiries related to this decision should be directed to Jose' G. Dees at 571-272-1569.

Robert Oberleitner, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

#11

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21 JUN 2007

Jeffrey R. Stone
Altera Law Group, LLC
6500 City West Parkway, Suite 100
Minneapolis, MN 55344-7704

In re Application of	:
HOFFMAN et al.	:
Application No. 10/181,902	:
PCT No.: PCT/DE01/00252	: DECISION ON PETITION
Int. Filing Date: 22 January 2000	: : UNDER 37 CFR 1.181
Priority Date: 21 January 2000	:
Attorney Docket No.: 32226-33	:
For: DRIVER CIRCUIT	

This decision is issued in response to applicant's "Petition to Withdraw Holding of Abandonment" filed 21 March 2005 and applicant's "Communication Regarding Earlier Filed Petition to Withdraw Holding of Abandonment" filed 22 November 2006, treated herein as a petition under 37 CFR 1.181.

Applicant's petition to withdraw the holding of abandonment under 37 CFR 1.181 is **GRANTED**.

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the Notification of Missing Requirements (PCT/DO/EO/905) mailed 04 October 2002 which set a period for reply of two (2) months. Accordingly, this application became abandoned at midnight on 04 December 2002.

Applicant states in their present petition that the Notification of Missing Requirements and Notification of Abandonment were not received due to an incomplete mailing address. Since the Notifications were mailed to an address that was not listed on the Transmittal Letter, the Notification of Missing Requirements (Form PCT/DO/EO/905) dated 04 October 2002 is hereby vacated. Further, the Notification of Abandonment dated 06 January 2004 is withdrawn.

The request to "Change of Correspondence Address" submitted on 14 May 2004 will be forwarded to the United States Designated/Elected Office (DO/EO/US). The correspondence address will be changed to: Altera Law Group, LLC, 6500 City West Parkway, Suite 100, Minneapolis, MN 55344-7704.

The application is being returned to the DO/EO/US for processing in accordance with this decision, that is, for mailing a "Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/elected Office (DO/EO/US)" (Form PCT/DO/EO/905) indicating that the oath or declaration requirement of 35 U.S.C. 371(c)(4) has not been satisfied.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: 571-272-3298
Fax: 571-273-0459

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TECHNOLOGY CENTER 3600

Frederick D. Vastine
OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
1940 Duke Street
Alexandria, VA 22314

In re application of :
Jacobus Cornelius Wammes :
Application No. 10/181,920 :
Filed: October 04, 2002 :
For: METHOD FOR INTRODUCING A MOISTURE-IMPERMEABLE LAYER INTO THE GROUND, AS WELL AS A TRENCH OBTAINED BY SUCH A METHOD

DECISION ON PETITION UNDER 37 CFR 1.181

This is a decision on the petition under 37 C.F.R §1.181, filed August 31,2005 to withdraw the holding of new matter with respect to the drawings filed January 10, 2005.

A review of the record reveals that the application was filed without drawings. The Examiner requested drawings in the Office action mailed July 8, 2004. The response filed January 10,2005 included new drawing Figures 1-3. These drawing Figures 1-3 were objected to as presenting new matter in the final rejection mailed April 4, 2005. The response to the final rejection included a proposed drawing change to Figures 2 and 3 to include the spacers 13. In the Advisory action mailed August 17,2005, the Examiner denied entry of the amendment and further commented on the drawing elements which represent new matter.

It is noted that it appears Petitioner has misinterpreted the new matter objection to the drawings set forth in the Office action of April 4, 2005, as an objection to the specification. While the Examiner's comments in the Advisory action of August 17, 2005 presented some examples of the new matter with respect to the disclosed elements in the specification, they were presented in order to clarify which elements of the drawings the Examiner considers to be new matter. Accordingly, Petitioner's basis for the petition and arguments are not germane to the pending new matter objection to the drawings.

However, in order to expedite prosecution of the instant application, the new matter objection to the drawings is reviewed herein.

The Examiner's comments clearly set forth many of the elements in Figures 1-3 which do not correspond to the disclosed elements in the specification. For example, the triangulated region along the upper right of each of Figures 2 and 3 is not disclosed in the specification; the dotted lines of Figure 1 are not disclosed; the cross-sectional shape of the casing member shown in Figure 1 is not supported by the original specification; and the shape of the spacers 13 is not supported by the original specification since spacers can take many forms.

Accordingly, the Examiner has not erred in not approving the drawings. Applicant has not complied with the requirement of 37 C.F.R. 1.81 and 1.83 insofar as the many elements of the drawings, as discussed, are not supported by the originally filed specification.

A non-final office action was mailed on January 4, 2006 and the Examiner will await response thereto.

The petition is DISMISSED.

Donald T. Hajec
Director
Technology Center 3600
(570) 272-5150

sdb: 1/04/06

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Paper No. 010504

NEIFELD IP LAW, PC
2001 JEFFERSON DAVIS HIGHWAY
ARLINGTON, VA 22202

JAN - 8 2004

In re Application of	:
Holger HEIN	: DECISION ON REQUEST TO
Application No. 10/181,931	: WITHDRAW FROM RECORD
Filed: July 30, 2002	:
Attorney Docket No. EPPI0013U-US	:

This is a decision on the request to withdraw as agent of record under 37 C.F.R. § 1.36, filed November 13, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request meets all the above listed requirements.

The request is APPROVED.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Jose G. Dees, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Cohen, Pontani, Lieberman & Pavane
551 Fifth Avenue
New York, NY 10176

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KRATZ, QUINTOS & HANSON, LLP
1420 K STREET, N.W.
SUITE 400
WASHINGTON, DC 20005

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OFFICE OF PETITIONS

In re Application of	:	
Tomonori Shimakita, et al.	:	
Application No. 10/181,935	:	DECISION GRANTING PETITION
Filed: July 30, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 020985	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 20, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 19, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 1645 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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.*

27 NOV 2002

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Greenblum & Bernstein
1941 Roland Clarke Place
Reston, VA 20191

In re Application of
LEROUX, Jean-Yves et al.
Application No.: 10/181,940
PCT No.: PCT/FR01/02503
Int. Filing Date: 31 July 2001
Priority Date: 31 July 2000
Docket No.: P22451
For: IN-FLIGHT ENCRYPTION/DECRYPTION SYSTEM FOR DATA DISTRIBUTION

DECISION

ON PETITION UNDER

37 CFR 1.137(b)

Applicant's "Petition to the Commissioner Under 37 C.F.R. §1.137(b) For Revival of the Application to Permit Entry Into the U.S. National Phase," filed in the above-captioned application on 31 July 2002 is **GRANTED**.

Applicant's statement that "the entire delay in filing the required reply, i.e., effectuating entry into the U.S. National Phase for the above-captioned International application was unintentional," is construed to mean that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional, as required by 37 CFR 1.137(b)(3). If this is not a correct interpretation, applicant must notify the Office immediately. The appropriate national fee and petition fee have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A declaration in compliance with 37 CFR 1.497(a)-(b) was submitted with the national stage papers. An English translation of the international application has not been furnished.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision, including the mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an English translation of the international application and the processing fee for late furnishing of the English translation are required.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

2 8 FEB 2003

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Abraham Hershkovitz
GREENBLUM & BERNSTEIN, P.L.C.
1941 Roland Clarke Place
Reston, VA 20191

In re Application of	:	
Jean-Yves LEROUX et al	:	
Application No.: 10/181,941	:	DECISION ON
PCT No.: PCT/FR01/02174	:	
Int. Filing Date: 06 July 2001	:	PETITION UNDER
Priority Date: 08 July 2000	:	
Attorney's Docket No.: P22450	:	37 CFR 1.137(b)
For: SYSTEM FOR CONTROLLING ONLINE	:	
AND OFFLINE ... KEY SERVER	:	

This is in response to the " PETITION TO THE COMMISSIONER UNDER 37 C.F.R. §1.137(b) FOR REVIVAL OF THE APPLICATION TO PERMIT ENTRY INTO THE U.S. NATIONAL PHASE " filed on 31 July 2002.

BACKGROUND

On 06 July 2001, this international application was filed, claiming an earliest priority date of 08 July 2000. A copy of the intentional application was transmitted on 10 January 2002 to the USPTO from the International Bureau

No Demand electing the United States was filed in this international application Accordingly, the deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.494 was 06 March 2002. This international application became abandoned with respect to the United States at midnight on 06 March 2002 for failure pay the basic national fee.

On 31 July 2002, applicant filed in the United States Patent and Trademark Office (PTO) the instant petition, and a transmittal letter for entry into the national stage in the U.S. under 35 U.S.C. 371, which was accompanied by, *inter alia*, the U.S. basic national fee, and an executed declaration was submitted at such time.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay

in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3) and, (4) under 37 CFR 1.137(b).

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371. The 35 U.S.C. 371 date of this application is **31 July 2002**.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
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21 APR 2003

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#7

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George E. Oram
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Suite 400
1050 Connecticut Avenue
Washington, D.C. 20036

In re Application of	:	
CHOW et al.	:	
Application No.: 10/181,942	:	DECISION ON
PCT No.: PCT/CA01/00200	:	PAPERS UNDER 37 CFR 1.42
Int. Filing Date: 19 February 2001	:	
Priority Date: 18 February 2000	:	
Attorney Docket No.: 108320-00012	:	
For: METHOD AND SYSTEM FOR RESISTANCE TO STATISTICAL POWER ANALYSIS		

This is a response to the declaration filed 23 January 2003 which is being treated as a request under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 19 February 2001, applicants filed international application PCT/CA01/00200, which claimed a priority date of 18 February 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 23 August 2001. A Demand was filed with the International Preliminary Examining Authority electing the United States. As a result, the deadline for payment of the basic national fee was extended to expire on 18 August 2002.

On 31 July 2002, applicants filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee; a copy of the international application; a preliminary amendment; and an information disclosure statement.

On 23 September 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497 and the surcharge fee required under 37 CFR 1.492(e). The notification set a two-month time limit in which to respond.

On 23 January 2003, applicants filed an executed declaration/power of attorney. The declaration is executed by: Stanley Chow and Harold Johnson as inventors and Miheng Yan on behalf of deceased inventor, James Zhengchu Xiao.

DISCUSSION

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

The declaration filed 23 January 2003 is executed by Stanley Chow and Harold Johnson as inventors and Miheng Yan as the "legal representative" of the deceased inventor, James Zhengchu Xiao. The declaration submitted appears to have been executed by the proper party under 37 CFR 1.42, however, the declaration does not satisfy the requirements under 37 CFR 1.497(b)(2).

37 CFR 1.497(b)(2) states the following:

> (2) If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, or § 1.47) the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative.

Pursuant to revised 37 CFR 1.497(b)(2), in addition to the citizenship and former residence and post office address of the deceased inventor referenced under 37 CFR 1.497(a)(3) and 37 CFR 1.63, the declaration must also provide residence, citizenship, and post office address for the legal representative. The declaration filed on 23 January 2003 provides this information with respect to the legal representative, but not the inventor. Accordingly, the declaration is not in compliance with 37 CFR 1.497(a)(3) and 37 CFR 1.63.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is REFUSED.

Applicant is required to provide an oath/declaration in compliance with 37 CFR 1.497(a)-(b) within **TWO (2) MONTH** from the mail date of this Decision. Failure to respond will result in the abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42."

Any further correspondence with respect to this matter should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42" and be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.

Applicants are advised that, effective May 1, 2003, the Office is changing its correspondence address. Any further correspondence with respect to this matter deposited with the United States Postal Service on or after May 1, 2003 should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (703) 308-6314
Fax: (703) 308-6459

2 3 JUN 2003

#9

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1050 Connecticut Avenue
Washington, D.C. 20036

In re Application of	:	
CHOW et al.	:	
Application No.: 10/181,942	:	DECISION ON
PCT No.: PCT/CA01/00200	:	PAPERS UNDER 37 CFR 1.42
Int. Filing Date: 19 February 2001	:	
Priority Date: 18 February 2000	:	
Attorney Docket No.: 108320-00012	:	
For: METHOD AND SYSTEM FOR RESISTANCE TO STATISTICAL POWER ANALYSIS		

This is a response to the "Renewed Submission under 37 CFR 1.42" filed 13 June 2003.

BACKGROUND

On 19 February 2001, applicants filed international application PCT/CA01/00200, which claimed a priority date of 18 February 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 23 August 2001. A Demand was filed with the International Preliminary Examining Authority electing the United States. As a result, the deadline for payment of the basic national fee was extended to expire on 18 August 2002.

On 31 July 2002, applicants filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee; a copy of the international application; a preliminary amendment; and an information disclosure statement.

On 23 September 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497 and the surcharge fee required under 37 CFR 1.492(e). The notification set a two-month time limit in which to respond.

On 23 January 2003, applicants filed an executed declaration/power of attorney. The declaration is executed by: Stanley Chow and Harold Johnson as inventors and Miheng Yan on behalf of deceased inventor, James Zhengchu Xiao. In a decision dated 21 April 2003,

applicants' request filed 23 January 2003 was dismissed because the declaration was defective under 37 CFR 497(b).

On 13 June 2003, applicant filed "Renewed Submission under 37 CFR 1.42."

DISCUSSION

37 CFR 1.42 *When the Inventor is Dead,* states, in part:

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

The declaration filed 13 June 2003 is executed by Miheng Yang as the "legal representative" of the deceased inventor, James Zhengchu Xiao. The declaration is acceptable under 37 CFR 1.42 and complies with 37 CFR 1.497(a)-(b). Accordingly, the requirements for entry into national stage under 35 U.S.C. 371(c) were completed as of 13 June 2003.

CONCLUSION

The papers filed under 37 CFR 1.42 are ACCEPTED.

The application has an international filing date of 19 February 2001, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of **13 June 2003**.

The application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith
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31 OCT 2002

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Michael E. Fogarty
McDermott, Will & Emery
600 13th Street, N.W.
Washington, DC 20005-3096

In re Application of	:	
OHARA, et al.	:	DECISION ON PAPERS
Application No.: 10/181,987	:	
PUT No.: PCT/JP01/00904	:	UNDER 37 CFR 1.42
Int. Filing Date: 08 February 2001	:	
Priority Date: 08 February 2000	:	
Attorney Docket No.: 43888-135	:	
For: POLYMER ELECTROLYTE FUEL CELL	:	

This is a decision on the papers filed in United States Patent and Trademark Office (USPTO) on 24 July 2002, which are being treated as a request for acknowledgment of status under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 08 February 2001, applicant filed the international application, which claimed a priority date of 08 February 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 16 August 2001. A Demand for international preliminary examination in which the United States was elected was filed prior to the expiration of 19 months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 08 August 2002.

On 24 July 2002, applicant filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the requisite basic national fee; a translation of the international application into English; an Information Disclosure Statement; a First Preliminary Amendment; an assignment document for recording and a declaration/power of attorney executed by joint inventors Hideo OHARA, Toshihiro MATSUMOTO, Yasushi SUGAWARA, Junji NIIKURA, Kazuhito HATOH and Truhisa KANBARA. Additionally the declaration/power of attorney was executed by Masayo SUGOU on behalf of deceased joint inventor, Tatsuto YAMAZAKI. Applicant also included a legal opinion from Japanese counsel detailing Masayo SUGOU's position as sole legal heir to Tatsuto YAMAZAKI's estate.

DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

"In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or

declaration, and apply for and obtain a patent."

The declaration filed 24 July 2002 is executed by Masayo SUGOU on behalf of deceased joint inventor, Tatsuto YAMAZAKI. However, the declaration is not in compliance with 37 CFR 1.497 (a)-(b) in that it is unclear whether the declaration is setting forth the residence, post office address and country of citizenship of the deceased joint inventor Tatsuto YAMAZAKI or the legal heir as required under 37 CFR 1.497(b). This information must be provided for both the deceased joint inventor, Tatsuto YAMAZAKI and the legal representative, Masayo SUGOU.

CONCLUSION

Applicant's petition under 37 CFR 1.42 is **DISMISSED, without prejudice**.

Applicants are hereby afforded TWO (2) MONTHS from the mail date of this decision to file an oath or declaration in compliance with 37 CFR 1.497 (a)-(b). Any reconsideration request should include a cover letter entitled, "Petition Under 37 CFR 1.42." No petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter directed to the attention of the PCT Legal Office.

Richard Cole
PCT Legal Examiner
PCT Legal Office

Derek A. Putonen
PCT Petitions Attorney
PCT Legal Office
Telephone 703-305-0130
Fax: 703-308-6459

08 JUL 2003

#2

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Michael E. Fogarty
McDermott, Will & Emery
600 13th Street, N.W.
Washington, DC 20005-3096

In re Application of	:	
OHARA, et al.	:	DECISION ON PAPERS
Application No.: 10/181,987	:	
PUT No.: PCT/JP01/00904	:	UNDER 37 CFR 1.42
Int. Filing Date: 08 February 2001	:	
Priority Date: 08 February 2000	:	
Attorney Docket No.: 43888-135	:	
For: POLYMER ELECTROLYTE FUEL CELL	:	

This decision is in response to the "Response to Decision on Papers Under 37 CFR 1.42" filed in United States Patent and Trademark Office (USPTO) on 28 February 2003.

BACKGROUND

On 31 October 2002, applicant was mailed a decision dismissing applicant's submission under 37 CFR 1.42. Applicant was afforded two months to file a reply.

On 28 February 2003, applicant filed the present response accompanied by a petition for a two-month extension of time, authorization to charge the extension of time fee to Deposit Account No.: 50-0417 and a newly executed, combined declaration and power of attorney. With the filing of the petition for a two-month extension of time and payment of the extension fee, the response is considered timely filed.

DISCUSSION

As detailed in the decision mailed 31 October 2002, pursuant to 37 CFR 1.42, first sentence:

> "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent."

The declaration filed 28 February 2003 is not in compliance with 37 CFR 1.497 (a)-(b) in that the declaration does not identify the citizenship of the legal representative, Masayo SUGOU.

CONCLUSION

Applicant's renewed request under 37 CFR 1.42 is **DISMISSED, without prejudice**.

Applicants are hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file an oath or declaration in compliance with 37 CFR 1.497 (a)-(b). Failure to respond will result in the abandonment of the application. Any request for reconsideration should include a cover letter entitled, "Renewed Request Under 37 CFR 1.42." No petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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Legal Examiner
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26 FEB 2004

#9

UNITED STATES PATENT AND TRADEMARK OFFICE

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Washington, DC 20005-3096

In re Application of	:	
OHARA, et al.	:	
Application No.: 10/181,987	:	COMMUNICATION AND
PUT No.: PCT/JP01/00904	:	
Int. Filing Date: 08 February 2001	:	NOTIFICATION OF
Priority Date: 08 February 2000	:	
Attorney Docket No.: 43888-135	:	ABANDONMENT
For: POLYMER ELECTROLYTE FUEL CELL	:	

This communication is in response to applicant's "Request For Official Filing Receipt" filed 29 January 2004 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 08 July 2003, applicant was mailed a decision dismissing applicant's request for status pursuant to 37 CFR 1.42. Applicant was afforded two months to file any request for reconsideration.

On 29 January 2004, applicant filed the present request for an official filing receipt.

DISCUSSION

As detailed above, applicant has failed to respond to the decision mailed 08 July 2003 within the time provided. As such, the application became abandoned as to the United States on 08 February 2004.

RECOMMENDATION

Applicant may wish to consider filing a petition to the Commissioner under 37 CFR 1.137(a) or (b) requesting that the application be revived. Any petition filed under 37 CFR 1.137(a) and/or a petition under 37 CFR 1.137(b) requesting that the application be revived must meet the criteria indicated in the recent revision of 37 CFR 1.137. See 62 Fed. Reg. 53131 (October 10, 1997); 1203 Off. Gaz. Pat. Office 63 (October 21, 1997) (Effective Date: 01 December 1997).

This recommendation to file a petition under 37 CFR 1.137(a) or (b) should <u>not</u> be construed as an indication as to whether or not any such petition(s) will be favorably considered.

Alternatively, applicant may file a petition under 37 CFR 1.181 to withdraw the holding of abandonment in the event that applicant never received the decision mailed 08 July 2003. The Official Gazette, at 1156 OG 53, provides that a petition requesting relief based on the grounds that an Office action was not received must be accompanied by a statement that (1) the Office action was not received, (2) attests that a search of the file jacket indicates the Office action was not received, (3) attests that a search of counsel's docket records indicates the Office action was not received and (4) the Petition must also be accompanied by copies of the docket records where the non-received Office action would have been entered. (See also, Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

CONCLUSION

The application is **ABANDONED** as to the United States of America.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for mailing of a "Notification of Abandonment" (Form PCT/DO/EO/909).

Any further correspondence with respect to this matter should be directed Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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29 APR 2004

#12

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In re Application of OHARA, et al. Application No.: 10/181,987 PUT No.: PCT/JP01/00904 Int. Filing Date: 08 February 2001 Priority Date: 08 February 2000 Attorney Docket No.: 43888-135 For: POLYMER ELECTROLYTE FUEL CELL	DECISIONS ON PETITIONS UNDER 37 CFR 1.181 AND 37 CFR 1.52

This decision is in response to applicant's "Supplemental Petition For Withdrawal of Holding of Abandonment" filed 12 April 2004 in the United States Patent and Trademark Office (USPTO). The papers are being treated as a petition under 37 CFR 1.181, as well as, a renewed request for status under 37 CFR 1.42.

BACKGROUND

On 26 February 2004, applicant was mailed a communication informing applicant that a response to the decision mailed 08 July 2003 had not been filed within the time provided and that the application was abandoned as to the United States. Applicant was advised that if a response had been provided applicant should file a petition under 37 CFR 1.181.

On 11 March 2004, applicant was mailed a "Notification of Abandonment" (Form PCT/DO/EO/909) informing applicant that the application was abandoned as to the United States.

On 12 April 2004, applicant filed the present petition under 37 CFR 1.181 indicating that a response to the communication mailed 26 February 2004 had been filed on 05 March 2004. The 05 March 2004 filing included a showing that a response to the decision mailed 08 July 2003 (specifically, a compliant declaration and power of attorney) had been filed on 02 October 2003.

DISCUSSION

I. Petition Under 37 CFR 1.181

A review of the application file finds that applicant's original response of 02 October 2003 has been located and placed in the file. As applicant's original 02 October 2003 filing has been located, the present supplemental petition under 37 CFR 1.181 is dismissed as moot.

II. Renewed Request Under 37 CFR 1.42

It is noted that applicant's filing of 02 October 2003 includes a petition for a one-month extension of time and authorization to charge the appropriate extension fee to Deposit Account No.: 50-0417. As such, applicant's renewed request under 37 CFR 1.42 is considered timely filed.

Applicant's previously filed combined declaration and power of attorney was held not to e in compliant with 37 CFR 1.497 (a)-(b) in that the citizenship of the legal representative was not listed on the document. A review of the combined declaration and power of attorney finds that the citizenship of the legal representative, Masayo SUGOU has been provided and it is appropriate to accept the document at this time.

CONCLUSION

Applicant's supplemental petition under 37 CFR 1.181 is **DISMISSED as moot**.

For the reasons above, applicant's renewed petition under 37 CFR 1.42 is **GRANTED**.

The "Notification of Abandonment" (Form PCT/DO/EO/909) mailed 11 March 2004 is hereby **VACATED**.

The application has an international filing date of 08 February 2001 under 35 U.S.C. 363, and will be given a date of **02 October 2003** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the DO/EO/US for processing in accordance with this decision. Specifically, the mailing of a Notification of Acceptance (Form PCT/DO/EO/903).

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3 1 OCT 2003
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#7

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In re Application of COOPER Application No.: 10/182,017 PCT No.: PCT/AU01/01568 Int. Filing Date: 05 December 2001 Priority Date: 05 December 2000 Attorney Docket No.: 023929.43106 For: A DRIVE TRAIN ASSEMBLY FOR USE IN POWERED VEHICLES OR TRAILERS	DECISION ON REQUEST UNDER 37 CFR 1.497(d)

This decision is in response to applicant's "Amendment, Petition And Fee to Correct And/Or Add to Originally Named or Not Named Inventor(s) (37 C.F.R. § 1.48)" filed 26 September 2003.

BACKGROUND

On 05 December 2001, applicant filed international application PCT/AU01/01568, which claimed priority of an earlier application filed 05 December 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 13 June 2002. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 05 June 2003.

On 23 July 2002, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a First preliminary amendment.

On 30 June 2003, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was also notified of the need to pay the $65.00 surcharge for providing the oath or declaration later than 30 months from the earliest claimed priority date. In addition, applicant was notified of the need to file a translation of the International Application into English along with payment of the processing fee for providing the translation later than thirty months from the priority date. Applicant was given two months to respond and advised that this time period could

be extended with a proper petition and payment of fees.

On 26 September 2003, applicant responded with the present petition accompanied by a combined declaration and power of attorney executed by Stuart Strain, a signed statement from Stuart Strain, a signed statement from James Cooper, a petition for a one-month extension of time and payment of the extension of time fee.

DISCUSSION

A request under 37 CFR 1.497(d) [formally, 37 CFR 1.48] to correct an error in naming inventorship requires:

(1) a petition including a statement from each person being added or deleted as an inventor that the error in inventorship occurred without any deceptive intention on his or her part;

(2) an oath or declaration by the actual inventor(s) as required by 37 CFR 1.63;

(3) the fee set forth in 37 CFR 1.17(i); and

(4) if an assignment has been executed by any of the original named inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b).

As to Item (1), applicant has provided a statement from Stuart Strain declaring that he is the sole inventor for the present application and avowing that the error in inventorship occurred without deceptive intent. In addition, applicant has provided a signed statement from James Cooper avowing that he is not an inventor for the present application and that his naming as such occurred without deceptive intent.

Regarding Item (2), applicant has filed a combined declaration and power of attorney executed by Stuart Strain.

As Item (3), applicant has provided a check in the amount of $130.00.

Regarding Item (4), applicant has provided the written consent of the assignee, James Cooper.

As such, applicant has satisfied all four items detailed above and it is proper to grant applicant's petition at this time.

CONCLUSION

For the reasons discussed above, the request under 37 CFR 1.497(d) is **GRANTED**.

A review of the application papers reveals that applicant has now completed all the requirements of 35 U.S.C. 371 for entry into the national stage. This application will be given an international application filing date of **05 December 2001** and a date of **26 September 2003** under 35 U.S.C. 371.

The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision

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0 9 MAY 2003

#8

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In re Application of BENJAMINS, Arthur Michel Application No. 10/182,022 PCT No.: PCT/GB01/00088 Int. Filing Date: 10 January 2001 Priority Date: 19 January 2000 Attorney Docket No.: A35335-PCT-US For: CLOSABLE CONTAINER	: : : : : : : :	DECISION ON PETITION UNDER 37 CFR 1.47(b)

This is a decision on applicant's "Response to Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/Elected Office" which is being treated as a Petition under 37 C.F.R. 1.47(b) filed 20 February 2003 to accept the application without the signature of inventor, Arthur Michel Benjamins.

BACKGROUND

On 10 January 2001, applicant filed international application PCT/GB01/00088 which claimed a priority date of 19 January 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 26 July 2001. A Demand was filed with the International Preliminary Examination prior to the 19th month from the earliest claimed priority date. Accordingly, the thirty-month time period for submitting the requisite basic national fee in the United States of America was extended to expire 30 months from the priority date, 19 July 2002.

On 19 July 2002, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of international application; and a preliminary amendment.

On 16 September 2002, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed. The notification set a two-month time limit in which to respond.

On 20 February 2003, applicant filed the present petition under 37 CFR 1.47(b) and a petition and requisite fee for a three-month extension of time.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17(i); (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the nonsigning inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor; (5) proof of proprietary interest in the application; and, (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages. The 37 CFR 1.47(b) applicant has satisfied the requirements of item (1) and (2) above. However, items (3), (4), (5) and (6) have not been satisfied.

Concerning Item (3), a statement of the last known address of the nonsigning inventor has not been provided.

Regarding Item (4), an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor has not been provided.

Concerning Item (5), section 409.03(f) of the M.P.E.P., **Proof of Proprietary Interest**, states, in part:

> When an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that, as of the date the application is deposited in the Patent and Trademark Office, (1) the invention has been assigned to the applicant, or (2) the inventor has agreed in writing to assign the invention to the applicant, or (3) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.
>
> If the application assigned, a copy of the assignment (in the English Language) must be submitted. The assignment must clearly indicate that the invention described in the 37 CFR 1.47(b) application was assigned to the 37 CFR 1.47(b) applicant prior to the date the application is deposited in the Patent and Trademark Office. A statement under 37 CFR 3.73(b) by the assignee must also be submitted (see MPEP § 324) . . .
>
> When an inventor has agreed in writing to assign an invention described in an application deposited pursuant to 37 CFR 1.47(b), a copy of that agreement should be submitted. If an agreement to assign is dependent on certain specified conditions being met, it must be established by affidavit or declaration that those conditions have been met. A typical agreement to assign is an employment agreement where an employee (nonsigning inventor) agrees to assign to his or her employer (37 CFR 1.47(b) applicant) all inventions made during employment. When such an agreement is relied on, it must be established by the affidavit or declaration of a person having firsthand knowledge of the facts that the invention was made by the

> employee while employed by the 37 CFR 1.47(b) applicant.
>
> If the invention has not been assigned, or if there is no written agreement to assign, the 37 CFR 1.47(b) applicant must demonstrate that he or she otherwise has a sufficient proprietary interest in the matter.
>
> A proprietary interest obtained otherwise than by assignment or agreement to assign may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of a statute (if other than the United States statute) or a court decision (if other than a reported decision of a federal court or a decision reported in the United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record.

Regarding item (5), petitioner has not demonstrated that applicant has a propriety interest in the invention. Applicant has provided a copy of an agreement entitled "The Envopak Group Confidential Information" which has been executed by Arthur Michel Benjamins. However, the declaration of Robert Kirby does not indicate firsthand knowledge of the specific details surrounding the present invention of Mr. Benjamins, including the specific relationship of the inventive activities of Mr. Benjamins and his employment with Envopak. Additionally, it is unclear how Mr. Kirby is aware of Mr. Benjamins's invention being made in the course of the normal employment. As stated in section 409.03(f) of the M.P.E.P. when such an employment agreement is relied upon, it must be established by the affidavit or declaration of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant. An affidavit or declaration of a person having firsthand knowledge of the facts that the invention was made by the employee while employed has not been provided.

Regarding Item (6), petitioner has not show that such action is necessary to preserve the rights of the parties or to prevent irreparable damage has been made.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Mr. Benjamins under 37 CFR 1.47(b) at this time.

CONCLUSION

The petition filed under 37 CFR 1.47(b) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO MONTHS** from the mailing date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b).

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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08 AUG 20

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In re Application of	:	
BENJAMINS, Arthur Michel	:	
Application No. 10/182,022	:	DECISION ON PETITION
PCT No.: PCT/GB01/00088	:	UNDER 37 CFR 1.47(b)
Int. Filing Date: 10 January 2001	:	
Priority Date: 19 January 2000	:	
Attorney Docket No.: A35335-PCT-US	:	
For: CLOSABLE CONTAINER	:	

This is a decision on applicant's "Reply to Decision on Petition under 37 CFR 1.47" which is being treated as a Renewed Petition under 37 C.F.R. 1.47(b) filed 10 July 2003 to accept the application without the signature of inventor, Arthur Michel Benjamins.

BACKGROUND

On 10 January 2001, applicant filed international application PCT/GB01/00088 which claimed a priority date of 19 January 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 26 July 2001. A Demand was filed with the International Preliminary Examination prior to the 19th month from the earliest claimed priority date. Accordingly, the thirty-month time period for submitting the requisite basic national fee in the United States of America was extended to expire 30 months from the priority date, 19 July 2002.

On 19 July 2002, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of international application; and a preliminary amendment.

On 16 September 2002, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed. The notification set a two-month time limit in which to respond.

On 20 February 2003, applicant filed "Petition under 37 CFR 1.47(b)" and a petition and requisite fee for a three-month extension of time. In a Decision dated 09 May 2003, the petition under 37 CFR 1.47(b) was dismissed without prejudice.

On 10 July 2003, applicant filed the present renewed petition under 37 CFR 1.47(b).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17(i); (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the nonsigning inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor; (5) proof of proprietary interest in the application; and, (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages. The 37 CFR 1.47(b) applicant has satisfied the requirements of items (1),(2),(3),(5) and (6) above. However, item (4) has not been satisfied.

As to item (4), the declaration which accompanied the renewed petition is not in compliance with 37 CFR 1.497(b)(2) which states,"[i]f the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, or § 1.47) the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state." Specifically, the declaration executed by Robert Kirby does not identify the 37 CFR 1.47(b) applicant, Envopak Group Limited. Therefore, a newly executed declaration which identifies the 37 CFR 1.47(b) applicant is required.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Mr. Benjamins under 37 CFR 1.47(b) at this time.

CONCLUSION

The petition filed under 37 CFR 1.47(b) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO MONTHS** from the mailing date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b).

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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17 DEC 2003

#12

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In re Application of	:	
BENJAMINS, Arthur Michel	:	
Application No. 10/182,022	:	DECISION ON PETITION
PCT No.: PCT/GBO1/00088	:	UNDER 37 CFR 1.47(b)
Int. Filing Date: 10 January 2001	:	
Priority Date: 19 January 2000	:	
Attorney Docket No.: A35335-PCT-US	:	
For: CLOSABLE CONTAINER	:	

This is a decision on applicant's "Reply to Decision on Petition under 37 CFR 1.47" which is being treated as a Renewed Petition under 37 C.F.R. 1.47(b) filed 09 October 2003 to accept the application without the signature of inventor, Arthur Michel Benjamins.

BACKGROUND

On 10 January 2001, applicant filed international application PCT/GBO1/00088 which claimed a priority date of 19 January 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 26 July 2001. A Demand was filed with the International Preliminary Examination prior to the 19th month from the earliest claimed priority date. Accordingly, the thirty-month time period for submitting the requisite basic national fee in the United States of America was extended to expire 30 months from the priority date, 19 July 2002.

On 19 July 2002, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of international application; and a preliminary amendment.

On 16 September 2002, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed. The notification set a two-month time limit in which to respond.

On 20 February 2003, applicant filed "Petition under 37 CFR 1.47(b)" and a petition and requisite fee for a three-month extension of time. In a Decision dated 09 May 2003, the petition under 37 CFR 1.47(b) was dismissed without prejudice.

On 10 July 2003, applicant filed renewed petition under 37 CFR 1.47(b). In a Decision dated 08 August 2003, the petition under 37 CFR 1.47(b) was dismissed without prejudice.

On 09 October 2003, applicant filed the present renewed petition under 37 CFR 1.47(b).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17(i); (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the nonsigning inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor; (5) proof of proprietary interest in the application; and, (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages.

A review of the materials submitted with the renewed petition reveals that applicant has now submitted materials which, taken in combination with the previous submissions, satisfy all the requirements for a grantable petition under 37 CFR 1.47(b).

CONCLUSION

The renewed petition under 37 CFR 1.47(b) is **GRANTED**.

The application will be given an international filing date of 10 January 2001 under 35 U.S.C. 363, and a date of **09 October 2003** under 35 U.S.C. 371(c).

As provided in 37 CFR 1.47(b), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(b) will be published in the Official Gazette.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

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17 DEC 2003

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In re Application of
BENJAMINS, Arthur Michel
Application No. 10/182,022
PCT No.: PCT/GBO1/00088
Int. Filing Date: 10 January 2001
Priority Date: 19 January 2000
Attorney Docket No.: A35335-PCT-US
For: CLOSABLE CONTAINER

Dear Mr. Benjamin:

You are identified as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 118. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Anthony Smith

Anthony Smith
Attorney-Attorney
Office of PCT Legal Administration
Telephone 703-308-6314
Fax: 703-308-6459

Counsel of Record:
Gary Abelev
Baker & Botts
30 Rockefeller Plaza
New York, NY 10122

24 SEP 2002
UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

In re Application of JEFFREY C. ROWLANDS Application No.: 10/182,023 PCT No.: PCT/AU00/01336 Int. Filing Date: 31 October 2000 Priority Date: 03 November 1999 Attorney Docket No.: 352078003US For: DRAGLINE BUCKET RIGGING AND CONTROL APPARATUS	DECISION ON PETITION UNDER 37 CFR 1.137(a)

This is in response to the petition to revive under 37 CFR 1.137(a), filed in the United States Patent and Trademark Office on 19 July 2002 in the above-identified application.

BACKGROUND

On 31 October 2000, applicants filed international application No. PCT/AU00/01336 which claimed a priority date of 03 November 1999, and which designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 10 May 2001.

On 29 May 2001, a Demand was filed with the International Preliminary Examining Authority electing the United States prior to the expiration of 19 months from the priority date, and as a result the deadline for submission of a copy of the international application and payment of the basic national fee was to expire 30 months from the priority date, i.e. 03 May 2002.

On 19 July 2002, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*: the $520 basic national fee for a small entity, an executed declaration, and a petition to revive under 37 CFR 1.137(a) and requisite fee including an explanation of the delay.

DISCUSSION

A grantable petition pursuant to 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the requisite petition fee; (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 37 CFR 1.137(c). Applicant has satisfied items (1) and (2). Item (4) is not required.

With regard to item (3), Section 711.03(c) of the Manual of Patent Examining Procedure (p.700-149) states: "A delay resulting from an error (e.g., a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that: (A) the error was the cause of the delay at issue; (B) there was in place a business routine for performing the clerical function that could

reasonably be relied upon to avoid errors in its performance; and (C) the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care." *See In re Egbers*, 6 USPQ2d 1869, 1872 (Comm'r Pat. 1988), *rev'd on other grounds sub nom., Theodor Groz & Sohne & Ernst Bechert Nadelfabrik KG v. Quigg*, 10 USPQ2d 1787 (D.D.C. 1988); *In re Katrapat*, 6 USPQ2d 1863, 1867-68 (Comm'r Pat. 1988).

The statement of John D. Forster, patent counsel for CMTE, the assignee of the present application, attempted to address the above questions by setting forth that Yimmy Seifert, who has 20 years experience in docketing patent matters, manually docketed the 03 May 2002 date as the deadline for commencing the national stage application. Mr. Forster further states that the manual entry was backed up by docketing the national stage deadline in the firm's electronic docketing system by his assistant, Denise Taylor.

Mr. Forster states that "due to a clerical error, the docket entry reminder for completing the national stage requirements was deleted in both the manual and electronic systems in favor of a docket entry that obfuscated the reminder regarding the upcoming deadline for entering national stage with a reminder for addressing the PCT examiner's indication of a lack of unity". Mr. Forster further states "As a result of the clerical error, we did not send notification of the national phase entry deadline to our client CMTE who rely on us to monitor deadlines of this nature. As a result, we failed to complete the requirements for commencing the national stage in the United States by May 3, 2002."

As explained in MPEP §711.03(c):

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 *Pratt*, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); *see also Winkler v. Ladd*, 221 F. Supp. 550, 552, 138 USPQ 666, 667-68 (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 intoaccount." *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).

Petitioner's statements of unavoidable delay are unacceptable. Specifically, the deletion

of the manual docket entry, which was backed up by the electronic docketing system, is not explained. It would seem that the manual docketing system would provide a prudent back-up reminder of an approaching deadline. Furthermore, the deletion of the electronic docket entry by an assistant with 2 years of training raises a question of whether the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care. Applicant's failure to complete entry into the national stage by the deadline due to clerical error does not constitute unavoidable delay.

In summary, the actions taken in the prosecution of this case do not reflect unavoidable delay. Specifically, unavoidable delay is present only where petitioner and those acting for petitioner take all actions necessary to continue the prosecution of an application, but through the intervention of unforeseen circumstances, a required action is not timely taken. The actions and circumstances described in this petition, however, do not reflect the "care or diligence that is generally used and observed by prudent and careful men in relation to their most important business." *Ex parte Pratt*, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887). Therefore, applicant has not satisfied item (3) above.

Since applicant has not met the requirements for revival of an application under 37 CFR 1.137(a), revival at this time would not be proper.

RECOMMENDATION

The dismissal or denial of a petition under 37 CFR 1.137(a) does not preclude an applicant from obtaining relief pursuant to 37 CFR 1.137(b) on the basis of unintentional delay (unless the decision dismissing or denying the petition under 37 CFR 1.137(a) indicates otherwise). In such an instance, a petition under 37 CFR 1.137(b) may be filed accompanied by the fee set forth in 37 CFR 1.17(m), the required reply, 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 any terminal disclaimer required by 37 CFR 1.137(c).

CONCLUSION

Therefore, the petition under 37 CFR 1.137(a) is **DISMISSED** and the application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, an appropriate response to this decision must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137 (a)."

Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to the Commissioner of Patents and Trademarks, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of PCT Legal Office.

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Legal Examiner
PCT Legal Office

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

CMK/LES:cmk

Telephone: (703) 306-5467
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In re Application of JEFFREY C. ROWLANDS Application No.: 10/182,023 PCT No.: PCT/AU00/01336 Int. Filing Date: 31 October 2000 Priority Date: 03 November 1999 Attorney Docket No.: 352078003US For: DRAGLINE BUCKET RIGGING AND CONTROL APPARATUS	DECISION ON PETITION UNDER 37 CFR 1.137(a)

This is in response to the petition to revive under 37 CFR 1.137(b), filed in the United States Patent and Trademark Office on 08 November 2002 in the above-identified application.

BACKGROUND

On 31 October 2000, applicants filed international application No. PCT/AU00/01336 which claimed a priority date of 03 November 1999, and which designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 10 May 2001.

On 29 May 2001, a Demand was filed with the International Preliminary Examining Authority electing the United States prior to the expiration of 19 months from the priority date, and as a result the deadline for submission of a copy of the international application and payment of the basic national fee was to expire 30 months from the priority date, i.e. 03 May 2002.

On 19 July 2002, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*: the $520 basic national fee for a small entity, an executed declaration, and a petition to revive under 37 CFR 1.137(a) and requisite fee including an explanation of the delay.

On 24 September 2002, a decision dismissing applicant's petition under 37 CFR 1.137(a) was mailed indicating that applicant had not shown that the actions taken in the prosecution of this case did not reflect unavoidable delay.

On 08 November 2002, applicant filed the instant petition to revive under 37 CFR 1.137(b).

DISCUSSION

A petition under 37 CFR 1.137(b) must be accompanied by (1) a proper response unless it has been previously submitted, (2) the fee required by law for revival of an unintentionally abandoned application (1.17(m)), and (3) a statement that the "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".

The proper response has been provided with the submission of the basic national fee of $520. Applicant's statement that "the entire delay in filing the required papers and fees for commencement of the national stage of this application until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the required petition fee of $640 has also been paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. The request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

CONCLUSION

The petition to revive under 37 CFR 1.137(b) is **GRANTED**.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing. The 35 U.S.C. 371 date is **19 July 2002.**

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467

CMK:cmk

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OFFICE OF PETITIONS

In re Application of
Victoria Rose Beazley
Application No. 10/182,025
Filed: July 19, 2002
Attorney Docket No. 02-108

ON PETITION

This is a decision on the petition, filed January 3, 2005, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The application became abandoned for a failure to reply in a timely manner to the non-final Office action mailed April 22, 2004. A Notice of Abandonment was mailed on November 2, 2004.

The petition is found to comply with the requirements of 37 CFR 1.137(b). Accordingly, the petition is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

The application file is being referred to Technology Center AU 3732 for consideration of the amendment filed January 3, 2005.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

RECEIVED
APR 18 2005
LAWRENCE S. COHEN, ATTORNEY

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OFFICE OF PETITIONS

In re Application of	:
Sauvage et al.	:
Application No. 10/182,033	: DECISION ON PETITION
Filed: October 24, 2002	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. P1803R1-1	:

This is a decision on the petition under 37 CFR 1.78(a)(6), filed May 11, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of a prior-filed provisional applications.

The petition is **DISMISSED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on October 24, 2002. The intermediate PCT application was filed on January 25, 2001, within twelve months of the filing date of the prior-filed provisional applications, Application No. 60/177,951, which was filed on January 25, 2000, and Application No. 60/195,761, which was filed on April 10, 2000, for which priority is claimed. A reference to the prior-filed provisional applications has been included in an amendment to the first sentence of the specification following the title and in an Application Data Sheet (ADS).

However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject

> matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

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).

Furthermore, the ADS submitted with the instant petition lists the parent provisional applications as having filing dates that are *subsequent* to the intermediate PCT application's filing date and do not match USPTO records. Petitioner is reminded that it is not required to submit both an amendment and an ADS, although it is not incorrect to do so.

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a substitute amendment[1] deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(6), is required.

As authorized, the $1330.00 fee required by 37 CFR 1.78(a)(6)(ii) will be charged to petitioner's Deposit Account No. 07-0630.

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

Central Fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Paralegal Liana Chase at (703) 306-0482. Any inquiries after approximately September 24, 2004 should be directed to (571) 272-3206.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] *Note* 37 CFR 1.121

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OFFICE OF PETITIONS

In re Application of	:	
Sauvage et al.	:	
Application No. 10/182,033	:	DECISION GRANTING PETITION
Filed: October 24, 2002	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. P1803R1-1	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed September 29, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional applications set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on October 24, 2002. The intermediate PCT application was filed on January 25, 2001, within twelve months of the filing date of the prior-filed provisional applications, Application No. 60/177,951, filed on January 25, 2000, and Application No. 60/195,761, filed on April 10, 2000, for which priority is claimed. A reference to the prior-filed provisional applications has been included in an amendment to the first sentence of the specification following the title and an Application Data Sheet (ADS).

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Also, the reference to the prior-filed provisional applications was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. §119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §119(e), the petition to accept an unintentionally delayed claim of benefit to prior-filed provisional Application Nos. 60/177,951 and 60/195,761 is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Paralegal Liana Chase at (571) 272-3282.

The application is being referred to Technology Center AU 1642 for appropriate action on the amendment submitted September 29, 2004, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application Nos. 60/177,951 and 60/195,761.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

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ON PETITION

In re Application of
Arrigo Arletti et al
Application No. 10/182,037
Filed: October 7, 2002
Attorney Docket No. US 19011

This is a decision on the petition under 37 CFR 1.313, filed June 15, 2004, which is being treated under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 7, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The correspondence filed on June 15, 2004 is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of William R. Reid appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts.

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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).

Telephone inquiries should be directed to Wan Laymon at (703) 306-5685.

The matter being referred to Technology Center AU 1755 for processing of the request for continued examination under 37 CFR 1.114.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

28 FEB 2005

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Simona Levi-Minzi, Ph.D.
IVAX Corporation
4400 Biscayne Boulevard
Miami, FL 33137

In re Application of	:	DECISION ON
Zhang et al	:	
Application No.: 10/182,041	:	
PCT No.: PCT/US01/01749	:	
Int. Filing Date: 19 January 2001	:	PETITION UNDER
Priority Date: 20 January 2000	:	
Attorney's Docket No.: BNP0206-USA	:	
For: PURIFYING POLYOXYETHYLATED CASTOR	:	
... FORMULATIONS THEREOF	:	37 CFR 1.137(b)

This decision is in response to applicants' "Petition For Revival Of An International Application For Patent Designating The U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed on 03 August 2003.

BACKGROUND

On 19 January 2001, this international application was filed, claiming an earliest priority date of 20 January 2000. Accordingly, the deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 20 July 2002.

On 18 July 2002, applicants filed the Transmittal letter for entry into the national stage in the United States, which was accompanied by, basic national fee. No executed declaration or oath was filed at such time.

On 20 September 2002, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that the oath or declaration complying with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date must be furnished within the time period set forth. The notification set a two months time limit or 32 months from the priority date for the application, whichever is later to respond.

On 23 December 2002 applicants file the "Response To Notice To File Missing Requirements Under 35 USC 371," which included, inter alia, an executed Declaration.

On 29 April 2003, the USPTO mailed applicants Notification of Defective Response (Form PCT/DO/EO/916) indicating that "the current oath or declaration does not comply with 37

CFR 1.497(a) and (b) in that it: when submitting multiple declarations, all inventors must be listed on all declarations."

On 08 September 2003, applicants filed a "Response to Notification of Defective Response," which included an executed Declaration.

On 01 March 2004, the USPTO mailed applicant Notification of Abandonment (Form PCT/DO/EO/909) indicating the application was abandoned because applicant has failed to properly respond to the notification of MISSING REQUIREMENT (Form PCT/DO/EO/905), mailed 09/20/2002 within the time period set therein.

On 03 August 2004, applicants filed in the United States Patent and Trademark Office (PTO) the instant petition, accompanied by, the petition fee for revival of an unintentionally abandoned application.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Applicants have satisfied requirements (2), (3), and (4) under 37 CFR 1.137(b) but not requirement (1).

Applicants have not provided: (1) the proper reply that is a properly executed declaration. The declaration is defective since it does not comply with 37 CFR 1.497(a)(3). A Declaration, under 37 CFR 1.497(a)(3) must identify each inventor. See MPEP § 602. In this instance, applicants submitted a composite declaration comprising of two sets of declarations. Each declaration must contain the names all inventors on it and not as here in which each inventor is listed in a separate declaration. The signatures of the inventors may be on separate declarations but each declaration must list all the inventors. Therefore the composite Declaration is defective.

Applicants have provided: (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is not deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b).

DECISION

The petition under 37 CFR 1.137(b) is **DISMISSED** without prejudice.

A proper response to this decision is a new declaration, which must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to respond will result in the abandonment of the application. Extensions of time are available under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3276
Fax: (571) 273-0459

29 JUN 2005

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Simona Levi-Minzi, Ph.D.
IVAX Corporation
4400 Biscayne Boulevard
Miami, FL 33137

In re Application of	:	DECISION ON
Zhang et al	:	
Application No.: 10/182,041	:	
PCT No.: PCT/US01/01749	:	
Int. Filing Date: 19 January 2001	:	PETITION UNDER
Priority Date: 20 January 2000	:	
Attorney's Docket No.: BNP0206-USA	:	
For: PURIFYING POLYOXYETHYLATED CASTOR	:	
... FORMULATIONS THEREOF	:	37 CFR 1.137(b)

This decision is responsive to applicants' "RESPONSE" filed on 31 March 2005 requesting the acceptance of the executed declaration.

BACKGROUND

In a decision from this Office on 28 February 2005, the declaration submitted was not accepted because it did not comply with 37 CFR 1.497(a) and (b) because applicants submitted a composite declarations, which were incomplete.

On 31 March 2005 applicants submitted a second renewed petition under 37 CFR 1.137(b) submitting a proper executed declaration.

DISCUSSION

The declarations filed on 31 March 2005 is a properly executed declaration that satisfies the conditions set forth under 37 CFR 1.497(a) and (b).

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b).

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **31 March 2005**.

Rafael Bacares
PCT Legal Examiner
PCT Legal Administration
Work (571) 272-6312
Fax (571) 273-0459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/17/06

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/182048 Patent No.: 6730695

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**	All changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

JOSEPH K. McKANE

SUPERVISORY PATENT EXAMINER

TECHNOLOGY CENTER 1600

SPE : **Art Unit** 1626

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BAKER BOTTS LLP
30 ROCKEFELLER PLAZA
44TH FLOOR
NEW YORK, NY 10112-4498

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MAY 09 2007

OFFICE OF PETITIONS

In re Application of :
Michael Gerard Tovey et al :
Application No. 10/182,058 : DECISION ON PETITION
Filed: November 22, 2002 :
Attorney Docket No. 077375.0240 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 15, 2006, to revive the above-identified application.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 14, 2006, 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 within the extendable period set in the March 14, 2006 non-final Office action. Accordingly, the application became abandoned on September 15, 2006. A Notice of Abandonment was mailed on September 28, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional

information. *See* MPEP 711.03(c)(III)(C). The instant petition lacks item (1).

The petition was not accompanied by the required reply to the non-final Office action of March 14, 2006. The petition merely states that the reply is a petition for extension of time and fee. If the reply is the filing of a continuing application, in order to facilitate action, the petition to revive should include a 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.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the extension of time submitted with the petition was subsequent to the maximum extendable period for reply, the $1,020 extension of time fee is unnecessary and will be credited to petitioner's deposit account.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

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NEW YORK, NY 10112-4498

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JUL 25 2007

OFFICE OF PETITIONS

In re Application of :
Michael Gerard Tovey et al :
Application No. 10/182,058 : DECISION ON PETITION
Filed: November 22, 2002 :
Attorney Docket No. 077375.0240 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed July 9, 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 March 14, 2006, which set a shortened statutory period for reply of three (3) months. A three (3) month extension of time was obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on September 15, 2006. A Notice of Abandonment was mailed on September 28, 2006. A decision dismissing the petition to revive filed on September 15, 2006 was mailed on May 7, 2007.

The petition now 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) and statement of express abandonment, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the non-final Office action of March 14, 2006 is accepted as being unintentionally delayed.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing Application No. 11/521,107, filed September 14, 2006.

The duplicate $1,500 petition fee received with the renewed petition is unnecessary and 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.

Frances Hicks
Petitions Examiner
Office of Petitions

25 OCT 2002
UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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MR. JAMES N. KALLIS
BROOKS & KUSHMAN P.C.
1000 TOWN CENTER, 22ND FLOOR
SOUTHFIELD, MI 48075

In re Application of LUTTER et al. Application No.: 10/182,059 PCT No.: PCT/EP01/06215 Int. Filing Date: 01 June 2001 Priority Date: 06 June 2000 Attorney Docket No.: KOA020PUSA For: METHOD FOR DETECTING THE ROTATIONAL POSITION OF THE DRIVE SHAFT OF A DC MOTOR	DECISION ON PETITION UNDER 37 CFR 1.137(b)

This decision is in response to applicants' "PETITION FOR REVIVAL OF A PATENT APPLICATION ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)" filed 24 July 2002.

BACKGROUND

On 01 June 2001, applicant filed international application PCT/EP01/06215, which claimed a priority date of 06 June 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 13 December 2001. The twenty-month period for paying the basic national fee in the United States expires at midnight on 06 February 2002.

On 24 July 2002, applicants filed, *inter alia*, a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, a purported translation of the international application into English, and the instant "PETITION FOR REVIVAL OF A PATENT APPLICATION ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)".

On 12 September 2002, applicants filed, *inter alia*, a declaration of inventors and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than twenty months from the priority date.

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:

(1) The required reply;
(2) The petition fee;

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicants submitted the basic national fee on 24 July 2002

As to item (2), applicants submitted the petition fee of $1,280.00 for a small entity on 24 July 2002.

With regard to item (3), petitioner has provided the required statement.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

The declaration of inventors filed 12 September 2002 is in compliance with 37 CFR 1.497(a)-(b).

The translation filed 24 July 2002 is not an accurate translation of the international application as filed: neither the drawings nor page 9 of the international application as published have been translated.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

Please direct any further correspondence with respect to this matter to the Commissioner of Patents and Trademarks, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) requiring a translation of the application into English and the processing fee under 37 CFR 1.492(f) for providing the translation later than twenty months from the priority date.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066
Facsimile: (703) 308-6459

2003
UNITED STATES PATENT AND TRADEMARK OFFICE

#5

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Mr. JAMES N. KALLIS
BROOKS & KUSHMAN P.C.
1000 TOWN CENTER, 22ND FLOOR
SOUTHFIELD, MI 48075

In re Application of STEFAN OTTE Application No.: 10/182,061 PCT No.: PCT/EP01/06219 Int. Filing Date: 01 June 2001 Priority Date: 06 June 2000 Attorney's Docket No.: KOA0209PUSA For: METHOD FOR PROVIDING A DIGITAL CURRENT FLUCTUATION SIGNAL	DECISION ON PETITION UNDER 37 CFR 1.137(b)

This is in response to the "Petition For Revival Of A Patent Application Abandoned Unintentionally Under 37 C.F.R. § 1.137(b)" filed on 24 July 2002.

BACKGROUND

On 01 June 2001, this international application was filed, claiming an earliest priority date of 06 June 2000. A copy of the intentional application was transmitted on 13 December 2001 to the USPTO from the International Bureau

No Demand electing the United States was filed in this international application Accordingly, the deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.494 was 06 February 2002. This international application became abandoned with respect to the United States at midnight on 06 February 2002 for failure pay the basic national fee.

On 24 July 2002, applicant filed in the United States Patent and Trademark Office (PTO) the instant petition, and a transmittal letter for entry into the national stage in the U.S. under 35 U.S.C. 371, which was accompanied by, *inter alia*, the U.S. basic national fee. No declaration or oath was submitted at such time.

On 04 September 2002, applicant filed an executed declaration.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing

application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3) and, (4) under 37 CFR 1.137(b).

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. The 35 USC 371 date of this application is **24 July 2002**.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6312
Fax: (703) 308-6459

#7

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02 SEP 2003

Mr. JAMES N. KALLIS
BROOKS & KUSHMAN P.C.
1000 TOWN CENTER, 22ND FLOOR
SOUTHFIELD, MI 48075

In re Application of
STEFAN OTTE
Application No.: 10/182,061
PCT No.: PCT/EP01/06219
Int. Filing Date: 01 June 2001
Priority Date: 06 June 2000
Attorney's Docket No.: KOA0209PUSA
For: METHOD FOR PROVIDING A DIGITAL CURRENT FLUCTUATION SIGNAL

Corrected Decision

This application is before the PCT Legal Office for consideration of matters under 35 U.S.C. 371.

DISCUSSION

In a decision from this Office on 31 March 2003, the petition under 37 CFR 1.137(b) filed on 24 July 2002 on application 10/182,061 for Revival of a Patent Application Abandoned Unintentionally under 37 CFR 1.137(b) was granted. The decision indicated, inter alia, that the 35 U.S.C. 371 date of the application is 24 July 2002.

However, a review of the file shows that the 35 U.S.C. 371 date of 24 July 2002 is in error since an English translation of the drawings (the graphs of figs 1a and 1b must have no foreign labeling since it must be completely in English) of the International Application as filed was not provided at that time. This decision corrects the previous decision to the extent that an English translation of the drawings is required in order to satisfy the requirements under 35 U.S.C. 371.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371 and for issuing form PCT/EO/DO/905(Notification of Missing Requirements) to inform applicant that an English translation of drawings of the International Application is missing.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6312
Fax: (703) 308-6459

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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LIPSITZ & MCALLISTER, LLC
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MONROE CT 06468

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AUG 3 1 2007

OFFICE OF PETITIONS

In re Application	:	
Timothy O'Farrell	:	
Application No. 10/182,077	:	DECISION ON APPLICATION
Filed: January 29, 2003	:	FOR PATENT TERM ADJUSTMENT
Docket No. MAC-107	:	

This is a decision on the "LETTER REGARDING PATENT TERM ADJUSTMENT," filed June 4, 2007. Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **six hundred sixty-one (661) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On March 23, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date was six hundred ninety-eight (698) days.

The Office initially determined a patent term adjustment of six hundred ninety-eight (698) days based on an adjustment for PTO delay of seven hundred ninety-three (793) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by ninety-five (95) days of applicant delay pursuant to 37 C.F.R. § 1.704(b). All adjustments have been reviewed and found to be correct.

However, Applicant points out that he should have been assessed additional delay for responding to a Notification of Missing Requirements. A Notification of Missing Requirements was mailed on September 23, 2002. Applicant filed a response on January 29, 2003. Accordingly, pursuant to 37 C.F.R. 1.704(b), applicant delay of thirty-seven (37) days should have been assessed.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **six hundred sixty-one (661) days** (793 days of PTO delay, reduced by 132 (95+37) days of applicant delay).

No fee has been charged. The Office thanks Applicant for his good faith and candor in bringing this matter to the Office's attention.

The matter is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Revised PAIR Screen

Day : Thursday
Date: 8/30/2007

PALM INTRANET

Time: 09:33:13

PTA Calculations for Application: 10/182077			
Application Filing Date:	01/29/2003	PTO Delay (PTO):	793
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	95
Post-Issue Petitions:	0	Total PTA (days):	661
PTO Delay Adjustment:	-37		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
41	08/30/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		37	
34	03/23/2007	MAIL NOTICE OF ALLOWANCE			
33	03/23/2007	MAIL EXAMINER'S AMENDMENT			
32	03/20/2007	ISSUE REVISION COMPLETED			
31	03/20/2007	DOCUMENT VERIFICATION			
30	03/20/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
29	03/20/2007	CASE DOCKETED TO EXAMINER IN GAU			
28	03/19/2007	EXAMINER'S AMENDMENT COMMUNICATION			
27	03/19/2007	NOTICE OF ALLOWABILITY			
26	01/04/2007	DATE FORWARDED TO EXAMINER			
25	12/04/2006	RESPONSE AFTER NON-FINAL ACTION		95	23
24	12/04/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
23	05/31/2006	MAIL NON-FINAL REJECTION	793		-1
22	05/30/2006	NON-FINAL REJECTION			
21	01/29/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
20	03/29/2006	CASE DOCKETED TO EXAMINER IN GAU			
19	03/23/2006	CASE DOCKETED TO EXAMINER IN GAU			
18	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
17	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
16	04/28/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
15	01/29/2003	CLAIMS PTO			
14	02/03/2005	MISCELLANEOUS INCOMING LETTER			
13	07/29/2004	MISCELLANEOUS INCOMING LETTER			

12	08/27/2003	CASE DOCKETED TO EXAMINER IN GAU			
11	06/06/2003	CASE DOCKETED TO EXAMINER IN GAU			
10	01/29/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	05/15/2003	APPLICATION DISPATCHED FROM OIPE			
6	05/14/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
5	05/07/2003	NOTICE OF DO/EO ACCEPTANCE MAILED			
4	01/29/2003	ADDITIONAL APPLICATION FILING FEES			
3	01/29/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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UR

MAY - 1 2003

PAPER NO. 4

In re Application of	:	
Arthur E. Clark et al.	:	
Serial No:10/182,095	:	PETITION UNDER
Filed: July 24, 2002	:	M.P.E.P. 708.02, IV
For: MAGNETOSTRICTIVE DEVICES AND	:	
METHODS USING HIGH MAGNETOSTRICTION,	:	
HIGH STRENGTH FEGA ALLOYS	:	

This is in response to the petition filed September 12, 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.**

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Office of Counsel Code 004
Naval surface Warfare Center
Carderock Division Headquarters
9500 MacArthur Boulevard
West Bethesda, MD 20817-5700

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NAVAL SURFACE WARFARE CENTER
CARDEROCK DIVISION HEADQUARTERS
9500 MACARTHUR BOULEVARD
WEST BETHESDA MD 20187

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JUL 1 4 2004

OFFICE OF PETITIONS

In re Application of	:	
Clark et al.	:	
Application No. 10/182,095	:	ON PETITION
Filed: July 24, 2002(National Phase Entry)	:	
International Filing Date: January 29, 2001		
Attorney Docket No.: 82,199	:	

This application has been referred to this office to treat the following communications: (1) filed January 26, 2004, and supplemented February 18, 2004, by the Department of the Navy (Navy) requesting waiver of the rules under 37 CFR 1.183 and under 37 CFR 1.48, amending the inventive entity to remove both Guruswamy and Srisukhumbowornchai and add Lograsso; (2) filed June 2, 2004, on behalf of the University of Utah Research Foundation (UURF) asking for a stay of treatment of the petitions noted in item 1 *ante*; (3) filed June 15, 2004, by UURF asking under 37 CFR 1.182 for appointment and revocation of the power of attorney for less than all the named inventors, and (4) filed June 24, 2004, by UURF opposing favorable treatment of the petitions noted in item 1 *ante*.

After consideration of all papers filed by or on behalf of all parties, all petitions and requests are **dismissed** with exception of the following, and only the following, which is **granted**:

For UURF as intervening successor in title to Guruswamy and Srisukhumbowornchai :

In accordance with MPEP 402.10 and 37 CFR 1.182, the requested appointment of Horton to represent UURF as the intervening successor in title to Guruswamy and Srisukhumbowornchai is **granted** as of the mail date of this decision.

However, in order to assure that all interests are properly and effectively represented, all further correspondence to the United States Patent and Trademark Office (USPTO) in this application--or resultant patent-- must be signed **both** by Horton who represents UURF as well as by one of counsel of record: Forrest, Jr.; Shuster; Kaiser; Crabb, Barrow. Any counsel when signing subsequent papers must indicate whom he or she represents. One of Forrest, Jr.; Shuster; Kaiser; Crabb, or Barrow, will also be responsible for coordinating replies or submissions to the USPTO. See MPEP 402.10.

All parties are reminded that dual correspondence is not permitted, and will not be undertaken by the USPTO.

With respect to the NAVY petitions under 37 CFR 1.183 and 1.48:

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by: (1) a petition including a statement from each person being added and from each person being deleted as an inventor that the error occurred without deceptive intention on his or her part; (2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47; (3) the fee set forth in 37 CFR 1.17 (i); and (4) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

The instant petition lacks items (1), (2), and (4).

The petition is **dismissed** as it clearly lacks the statements required from all inventors sought to be deleted, and further lacks the necessary statement from all previously named inventors with respect to the requested addition of Lograsso, and the oath. The assignee assent of record is not acceptable as U.S.A. has not established its ownership of the application as noted in more detail infra. But see MPEP 201.03, section (D).

MPEP 201.03 further notes that a petition under 37 CFR 1.183 requesting waiver of a provision(s) of 37 CFR 1.48(a) may be submitted in certain circumstances, and further, that the fee for the petition under 37 CFR 1.183 is also due. In order for grant of any petition under 37 CFR 1.183 to waive these rules, petitioner must show (1) that this is an extraordinary situation where (2) justice requires waiver of the rules. In re Sivertz, 227 U.S.P.Q. 255, 256 (Comm'r Pat. 1985). Where, as here, the question of inventorship between the diverse parties is vigorously contested, the USPTO will not relax the requirements of 37 CFR 1.48 by way of 37 CFR 1.183. See In re Cooper, 230 USPQ 638, 639 (Comm'r Pat. 1985). As petitioner has not adequately shown that either an extraordinary situation is herein present or that "justice requires" waiver, the petition for waiver is **dismissed**.

The application as filed named Clark, Wun-Fogle, Restorff, Guruswamy and Srisukhumbowornchai as inventors. Inventorship is the starting point for determining ownership. See University Patents, Inc. v. Kligman, 762 F.Supp. 1212, 1218-19, 20 USPQ2d 1401, 1405 (E.D. Pa. 1991). Unless there is an assignment, the USPTO will presume the named inventor(s) to be the owner(s), see 37 CFR 3.73(a). There is no evidence of any assignment(s) recorded against the provisional, PCT or the instant application other than (1) that recorded at reel 13207, frame 915 in which Fogle and Restorff assigned their rights in the instant application to the United States of America, and (2) that recorded at (a) reel 014682 frame 781 in which Srisukhumbowornchai assigned his rights to the University of Utah, and (b) at reel 14684 frame 60 in which Guruswamy assigned his rights to the University of Utah.[1] Thus, Clark retains his

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[1]It is noted that an assignment of the entire right title and interest passes both equitable and legal title. See Wende v. Horine, 191 F. 620, 621 (C.C.N.D. Ill. 1911). A successor in title, such as U.S.A., is free to deal with its interest as it chose. See

interest, the U.S.A. and UURF are the assignees of the remaining interests, and each aforementioned party has a *pro rata* interest in the application (respectively 20%, 40%, 40%). See Ethicon, Inc. v. United Sates Surgical Corp., 135 F.3d 1456, 1465, 45 USPQ2d 1545, 1552 (Fed. Cir 1998), cert. denied, 525 U.S. 923 (1998). As such, the United States does not own the entire interest in this application; rather the U.S.A. is but a *partial* assignee. But see 37 CFR 3.71(b)(2).[2] However, only the owner of the *entire* interest in an application has the sole right to control prosecution of an application. See In re Goldstein, 16 USPQ2d 1963, 1964 (Comm'r Pat. 1988; see also In re Scold, 195 USPQ 335, 335 (Comm'r Pat. 1976); Ex parte Harrison, 1925 Dec. Comm'r Pat. 122, 123 (Comm'r Pat. 1924). The procedures set forth in the regulations (e.g., 37 CFR §§ 1.36, 3.71 and 3.73(b)) serve to assure that papers filed with the USPTO in an application or patent are submitted on behalf of the owner(s) of the *entire* interest in the application or patent. See Goldstein, 16 USPQ2d at 1964. Accordingly, it would also be contrary to intent of the regulations to permit *ex parte*, by waiver of the rules, the U.S.A. to unilaterally extinguish the property rights that UURF has in this application. UURF as the successor in title to Srisukhumbowornchai's and Guruswamy's interests has a property right in this application that can be canceled, revoked, or annulled ***only*** by proceedings that afford due process of law. Iowa State University Research Foundation v. Sperry Rand Corp., 444 F.2d. 406, 410, 170 USPQ 374, 377 (4th Cir. 1971). An *ex parte* proceeding in the USPTO is *not* the appropriate forum for the contested extinction of a property right in an application. See Baker Hughes, Inc. v. Kirk, 921 F.Supp. 801 (D.D.C. 1995). That is especially so in, as here, the presence of the express objection of the party whose interest(s) is being extinguished. Id.; In re Hardee, 223 USPQ 1122 (Comm'r.Pat. 1984)

Moreover, petitioner has a suitable remedy on hand for his predicament, that does not require the extraordinary remedy of invoking 37 CFR 1.183. It is brought to petitioner's attention that the USPTO will not normally consider an extraordinary remedy, when the rules already provide an avenue for obtaining the relief sought. See Cantello v. Rasmussen, 220 USPQ 664, 664 (Comm'r Pat. 1982). It is well settled that the Office is not the appropriate forum for resolving a dispute concerning the ownership of an application, and, as such, the USPTO will not permit itself to become embroiled in

---

Garfield v. Western Electric Co., 298 F. 659 (S.D.N.Y. 1924)

[2] It is immaterial to this decision if Clark had assigned his rights to U.S.A., or if either or both of Guruswamy and Srisukhumbowornchai had not assigned their rights to UURF, but retained their interest(s). If U.S.A. was the successor in title to the interests of both Guruswamy and Srisukhumbowornchai and if U.S.A. and UURF in conjunction with any inventor who retained his interest, who together controlled the 100% of the interest in this application acted in concert, then the petition could be favorably treated. See 37 CFR 3.71(b)(2). *Since not all successors in title and inventors are in agreement, no one side can reasonably expect or be permitted to control the prosecution of this application to the exclusion of the other(s).*

ownership disputes. See, Ex Parte Harrison, 1925 Dec. Comm'r Pat. 122, 123 (Comm'r Pat. 1924); In re Moller, 1904 Dec. Comm'r Pat. 70, 71 (Comm'r Pat. 1904); Ex Parte McTammany, 1900, 168, 181 (Comm'r Pat. 1900); Ex Parte McFarlane, 1896 Dec. Comm'r Pat. 37,38 (Comm'r Pat. 1896); Ex Parte Gallatin, 1892 Dec. Comm'r Pat 106 (Comm'r Pat. 1892). Furthermore, in circumstances as herein, the USPTO seeks to preserve the rights of all parties to the extent it is able. See Rainer v. McPhail, 1899 C.D. 196, 197 (Comm'r Pat. 1899).

POSSIBLE REMEDY FOR BOTH NAVY AND UURF

As noted in MPEP 201.03, an alternate means to correct an alleged error in inventorship is to simply file a continuing application whose executed oath or declaration, on filing, sets forth the desired inventive entity, which obviates the need for a petition under 37 CFR 1.48 (and § 1.183). Thus, Navy may file such a continuing application that sets forth, in Navy's opinion, the correct inventive entity. Should UURF continue to dispute Navy's determination of inventorship in Navy's forthcoming continuing application, UURF likewise has a possible remedy, as explained in MPEP 409.03(l), in itself filing a continuing application where, presumably, the inventor(s) signing the Navy continuing application's oath/declaration will refuse to sign the UURF continuing application's oath/declaration such that UURF may therein proceed under 37 CFR 1.47 and seek an interference with the Navy continuing application. Here, the two continuing applications will presumably recite different inventive entities and, as such, reflect different parties in interest.

Both parties are advised that the USPTO will only consider an inventorship dispute by way of inter partes proceedings. Id.. Where a person believes that he is the inventor of subject matter claimed in the application or patent of another, his remedy is to file an application, if he can, and provoke an interference with the other application or patent. The question of prior inventorship can then be decided by the Board of Patent Appeals and Interferences based on evidence taken *inter partes*. See In re Hardee, 223 USPQ 1122 (Comm'r.Pat. 1984); Sewall v. Walters, 21 F.3d 411, 412, 30 USPQ2d 1356, 1357 (Fed. Cir. 1994). The USPTO will not resolve, *ex parte*, any dispute as to inventorship, not will it make, *ex parte,* an inventorship determination. See 37 CFR 1.48; Hardee, Id.

OTHER MATTERS

Lastly, Navy is advised that (1) the filing receipt currently does not name Srisukhumbowornchai as a joint inventor, and (2) there is a a typographical error in the claim for benefit of the prior provisional application in that mere inspection of provisional application No. 10/178,165 as to inventors, title, and subject matter, indicates it to be immaterial to the title, disclosure, and inventors named herein. To now correct the claim for benefit of the desired provisional application (presumably provisional application No. 60/178,615) would require a petition, fee, and amendment, as set forth in 37 CFR 1.78(a)(6).

A filing receipt corrected only to the extent that Srisukhumbowornchai is now listed as a named inventor, which is consistent with the executed declaration present on filing, is enclosed herewith.

The $130 fee for a §1.182 petition has been charged to UURF's counsel's account.

The $130 fee for a §1.183 petition, and $130 fee for a § 1.48 petition have been charged to Navy's counsels' account

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 Window located at:
2011 South Clark Place
Crystal Plaza Two Lobby
Room 1B03
Arlington, VA 22202

Central Fax: (703) 872-9306
ATTN: Office of Petitions

Telephone inquiries related to this decision should be addressed to the undersigned at (703) 305-1820.

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Corrected Filing Receipt

cc:
Kenneth Horton
Kirton & Mcconkie
1800 Eagle Gate Tower
60 East South Temple
Salt Lake City Utah 84111

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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9500 MACARTHUR BOULEVARD
WEST BETHESDA MD 20187

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JUL 1 4 2004

OFFICE OF PETITIONS

In re Application of
Clark et al.
Application No. 10/182,095
Filed: July 24, 2002(National Phase Entry)
International Filing Date: January 29, 2001
Attorney Docket No.: 82,199

: ON PETITION

This application has been referred to this office to treat the following communications: (1) filed January 26, 2004, and supplemented February 18, 2004, by the Department of the Navy (Navy) requesting waiver of the rules under 37 CFR 1.183 and under 37 CFR 1.48, amending the inventive entity to remove both Guruswamy and Srisukhumbowornchai and add Lograsso; (2) filed June 2, 2004, on behalf of the University of Utah Research Foundation (UURF) asking for a stay of treatment of the petitions noted in item 1 *ante*; (3) filed June 15, 2004, by UURF asking under 37 CFR 1.182 for appointment and revocation of the power of attorney for less than all the named inventors, and (4) filed June 24, 2004, by UURF opposing favorable treatment of the petitions noted in item 1 *ante*.

After consideration of all papers filed by or on behalf of all parties, all petitions and requests are **dismissed** with exception of the following, and only the following, which is **granted**:

For UURF as intervening successor in title to Guruswamy and Srisukhumbowornchai :

In accordance with MPEP 402.10 and 37 CFR 1.182, the requested appointment of Horton to represent UURF as the intervening successor in title to Guruswamy and Srisukhumbowornchai is **granted** as of the mail date of this decision.

However, in order to assure that all interests are properly and effectively represented, all further correspondence to the United States Patent and Trademark Office (USPTO) in this application--or resultant patent– must be signed **both** by Horton who represents UURF as well as by one of counsel of record: Forrest, Jr.; Shuster; Kaiser; Crabb, Barrow. Any counsel when signing subsequent papers must indicate whom he or she represents. One of Forrest, Jr.; Shuster; Kaiser; Crabb, or Barrow, will also be responsible for coordinating replies or submissions to the USPTO. See MPEP 402.10.

All parties are reminded that dual correspondence is not permitted, and will not be undertaken by the USPTO.

Exhibit B

With respect to the NAVY petitions under 37 CFR 1.183 and 1.48:

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by: (1) a petition including a statement from each person being added and from each person being deleted as an inventor that the error occurred without deceptive intention on his or her part; (2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47; (3) the fee set forth in 37 CFR 1.17 (i); and (4) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

The instant petition lacks items (1), (2), and (4).

The petition is **dismissed** as it clearly lacks the statements required from all inventors sought to be deleted, and further lacks the necessary statement from all previously named inventors with respect to the requested addition of Lograsso, and the oath. The assignee assent of record is not acceptable as U.S.A. has not established its ownership of the application as noted in more detail infra. But see MPEP 201.03, section (D).

MPEP 201.03 further notes that a petition under 37 CFR 1.183 requesting waiver of a provision(s) of 37 CFR 1.48(a) may be submitted in certain circumstances, and further, that the fee for the petition under 37 CFR 1.183 is also due. In order for grant of any petition under 37 CFR 1.183 to waive these rules, petitioner must show (1) that this is an extraordinary situation where (2) justice requires waiver of the rules. In re Sivertz, 227 U.S.P.Q. 255, 256 (Comm'r Pat. 1985). Where, as here, the question of inventorship between the diverse parties is vigorously contested, the USPTO will not relax the requirements of 37 CFR 1.48 by way of 37 CFR 1.183. See In re Cooper, 230 USPQ 638, 639 (Comm'r Pat. 1985). As petitioner has not adequately shown that either an extraordinary situation is herein present or that "justice requires" waiver, the petition for waiver is **dismissed**.

The application as filed named Clark, Wun-Fogle, Restorff, Guruswamy and Srisukhumbowornchai as inventors. Inventorship is the starting point for determining ownership. See University Patents, Inc. v. Kligman, 762 F.Supp. 1212, 1218-19, 20 USPQ2d 1401, 1405 (E.D. Pa. 1991). Unless there is an assignment, the USPTO will presume the named inventor(s) to be the owner(s), see 37 CFR 3.73(a). There is no evidence of any assignment(s) recorded against the provisional, PCT or the instant application other than (1) that recorded at reel 13207, frame 915 in which Fogle and Restorff assigned their rights in the instant application to the United States of America, and (2) that recorded at (a) reel 014682 frame 781 in which Srisukhumbowornchai assigned his rights to the University of Utah, and (b) at reel 14684 frame 60 in which Guruswamy assigned his rights to the University of Utah.[1] Thus, Clark retains his

---

[1]It is noted that an assignment of the entire right title and interest passes both equitable and legal title. See Wende v. Horine, 191 F. 620, 621 (C.C.N.D. Ill. 1911). A successor in title, such as U.S.A., is free to deal with its interest as it chose. See

interest, the U.S.A. and UURF are the assignees of the remaining interests, and each aforementioned party has a *pro rata* interest in the application (respectively 20%, 40%, 40%). See Ethicon, Inc. v. United Sates Surgical Corp., 135 F.3d 1456, 1465, 45 USPQ2d 1545, 1552 (Fed. Cir 1998), cert. denied, 525 U.S. 923 (1998). As such, the United States does not own the entire interest in this application; rather the U.S.A. is but a *partial* assignee. But see 37 CFR 3.71(b)(2).[2] However, only the owner of the *entire* interest in an application has the sole right to control prosecution of an application. See In re Goldstein, 16 USPQ2d 1963, 1964 (Comm'r Pat. 1988; see also In re Scold, 195 USPQ 335, 335 (Comm'r Pat. 1976); Ex parte Harrison, 1925 Dec. Comm'r Pat. 122, 123 (Comm'r Pat. 1924). The procedures set forth in the regulations (e.g., 37 CFR §§ 1.36, 3.71 and 3.73(b)) serve to assure that papers filed with the USPTO in an application or patent are submitted on behalf of the owner(s) of the *entire* interest in the application or patent. See Goldstein, 16 USPQ2d at 1964. Accordingly, it would also be contrary to intent of the regulations to permit *ex parte*, by waiver of the rules, the U.S.A. to unilaterally extinguish the property rights that UURF has in this application. UURF as the successor in title to Srisukhumbowornchai's and Guruswamy's interests has a property right in this application that can be canceled, revoked, or annulled ***only*** by proceedings that afford due process of law. Iowa State University Research Foundation v. Sperry Rand Corp., 444 F.2d. 406, 410, 170 USPQ 374, 377 (4th Cir. 1971). An *ex parte* proceeding in the USPTO is *not* the appropriate forum for the contested extinction of a property right in an application. See Baker Hughes, Inc. v. Kirk, 921 F.Supp. 801 (D.D.C. 1995). That is especially so in, as here, the presence of the express objection of the party whose interest(s) is being extinguished. Id.; In re Hardee, 223 USPQ 1122 (Comm'r.Pat. 1984)

Moreover, petitioner has a suitable remedy on hand for his predicament, that does not require the extraordinary remedy of invoking 37 CFR 1.183. It is brought to petitioner's attention that the USPTO will not normally consider an extraordinary remedy, when the rules already provide an avenue for obtaining the relief sought. See Cantello v. Rasmussen, 220 USPQ 664, 664 (Comm'r Pat. 1982). It is well settled that the Office is not the appropriate forum for resolving a dispute concerning the ownership of an application, and, as such, the USPTO will not permit itself to become embroiled in

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Garfield v. Western Electric Co., 298 F. 659 (S.D.N.Y. 1924)

[2] It is immaterial to this decision if Clark had assigned his rights to U.S.A., or if either or both of Guruswamy and Srisukhumbowornchai had not assigned their rights to UURF, but retained their interest(s). If U.S.A. was the successor in title to the interests of both Guruswamy and Srisukhumbowornchai and if U.S.A. and UURF in conjunction with any inventor who retained his interest, who together controlled the 100% of the interest in this application acted in concert, then the petition could be favorably treated. See 37 CFR 3.71(b)(2). *Since not all successors in title and inventors are in agreement, no one side can reasonably expect or be permitted to control the prosecution of this application to the exclusion of the other(s).*

ownership disputes. See, Ex Parte Harrison, 1925 Dec. Comm'r Pat. 122, 123 (Comm'r Pat. 1924); In re Moller, 1904 Dec. Comm'r Pat. 70, 71 (Comm'r Pat. 1904); Ex Parte McTammany, 1900, 168, 181 (Comm'r Pat. 1900); Ex Parte McFarlane, 1896 Dec. Comm'r Pat. 37,38 (Comm'r Pat. 1896); Ex Parte Gallatin, 1892 Dec. Comm'r Pat 106 (Comm'r Pat. 1892). Furthermore, in circumstances as herein, the USPTO seeks to preserve the rights of all parties to the extent it is able. See Rainer v. McPhail, 1899 C.D. 196, 197 (Comm'r Pat. 1899).

POSSIBLE REMEDY FOR BOTH NAVY AND UURF

As noted in MPEP 201.03, an alternate means to correct an alleged error in inventorship is to simply file a continuing application whose executed oath or declaration, on filing, sets forth the desired inventive entity, which obviates the need for a petition under 37 CFR 1.48 (and § 1.183). Thus, Navy may file such a continuing application that sets forth, in Navy's opinion, the correct inventive entity. Should UURF continue to dispute Navy's determination of inventorship in Navy's forthcoming continuing application, UURF likewise has a possible remedy, as explained in MPEP 409.03(l), in itself filing a continuing application where, presumably, the inventor(s) signing the Navy continuing application's oath/declaration will refuse to sign the UURF continuing application's oath/declaration such that UURF may therein proceed under 37 CFR 1.47 and seek an interference with the Navy continuing application. Here, the two continuing applications will presumably recite different inventive entities and, as such, reflect different parties in interest.

Both parties are advised that the USPTO will only consider an inventorship dispute by way of inter partes proceedings. Id.. Where a person believes that he is the inventor of subject matter claimed in the application or patent of another, his remedy is to file an application, if he can, and provoke an interference with the other application or patent. The question of prior inventorship can then be decided by the Board of Patent Appeals and Interferences based on evidence taken *inter partes*. See In re Hardee, 223 USPQ 1122 (Comm'r.Pat. 1984); Sewall v. Walters, 21 F.3d 411, 412, 30 USPQ2d 1356, 1357 (Fed. Cir. 1994). The USPTO will not resolve, *ex parte*, any dispute as to inventorship, not will it make, *ex parte*, an inventorship determination. See 37 CFR 1.48; Hardee, Id.

OTHER MATTERS

Lastly, Navy is advised that (1) the filing receipt currently does not name Srisukhumbowornchai as a joint inventor, and (2) there is a a typographical error in the claim for benefit of the prior provisional application in that mere inspection of provisional application No. 10/178,165 as to inventors, title, and subject matter, indicates it to be immaterial to the title, disclosure, and inventors named herein. To now correct the claim for benefit of the desired provisional application (presumably provisional application No. 60/178,615) would require a petition, fee, and amendment, as set forth in 37 CFR 1.78(a)(6).

A filing receipt corrected only to the extent that Srisukhumbowornchai is now listed as a named inventor, which is consistent with the executed declaration present on filing, is enclosed herewith.

The $130 fee for a §1.182 petition has been charged to UURF's counsel's account.

The $130 fee for a §1.183 petition, and $130 fee for a § 1.48 petition have been charged to Navy's counsels' account

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 Window located at:
2011 South Clark Place
Crystal Plaza Two Lobby
Room 1B03
Arlington, VA 22202

Central Fax: (703) 872-9306
ATTN: Office of Petitions

Telephone inquiries related to this decision should be addressed to the undersigned at (703) 305-1820.

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Corrected Filing Receipt

cc:
Kenneth Horton
Kirton & Mcconkie
1800 Eagle Gate Tower
60 East South Temple
Salt Lake City Utah 84111

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United States Patent and Trademark Office
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WEST BETHESDA MD 20187

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OFFICE OF PETITIONS

In re Application of	:	
Clark et al.	:	
Application No. 10/182,095	:	ON PETITION
Filed: July 24, 2002(National Phase Entry)	:	
International Filing Date: January 29, 2001		
Attorney Docket No.: 82,199	:	

This application has again been referred to this office to treat the following communications: (1) filed under 37 CFR 1.183 on July 25, 2005, by joint owner University of Utah Research Foundation (UURF) requesting, *inter alia*, that UURF be permitted to continue the prosecution of this application in the absence of the consent of joint owner the Department of the Navy (Navy) Navy, and (2) filed August 12, 2005, by Navy, opposing any favorable treatment of the communications filed by UURF.

After consideration of all papers filed by or on behalf of all parties, all petitions and requests are **dismissed**.

For UURF:

UURF proffers *inter alia*, a reply to the outstanding Office action, a petition under 37 CFR 1.78, and a petition under 37 CFR 1.183 requesting waiver of the rules such that UURF may continue prosecution of this application, in the absence of the continued participation of Navy, notwithstanding the decision of July 14, 2004, which is expressly incorporated herein by reference. The UURF communications are not signed by counsel for both parties, notwithstanding the conditioning of the favorable treatment of UURF's prior request for separate representation on the joint signatures of counsel for both parties on all future correspondence in this case.

As noted in the previous decision (at 4) since UURF (and also Navy) may each file a continuing application consonant with their respective contention(s) as to inventive entity, choice of registered representatives, etc., UURF has failed to show that an extraordinary situation exists, much less that "justice requires" waiver of the rules on behalf of UURF, such that it may control the further prosecution of this application to the exclusion of Navy. The USPTO will not consider waiver of the rules where the rules, as here, already provide another avenue for obtaining the requested relief. Since not all successors in title and inventors are in agreement, no one side can reasonably expect or be permitted to control the prosecution of this application to the exclusion of the other(s). See In re Goldstein, 16 USPQ2d 1963, 1964 (Comm'r Pat. 1988; see also In re Scold, 195 USPQ 335, 335 (Comm'r Pat. 1976); Ex parte Harrison, 1925 Dec. Comm'r Pat. 122, 123 (Comm'r Pat. 1924). The procedures set forth in the regulations (e.g., 37 CFR §§ 1.36, 3.71 and 3.73(b)) serve to assure that papers filed with the USPTO in an application or patent are submitted on behalf of the owner(s) of the *entire* interest in the application or patent. See Goldstein, 16 USPQ2d at 1964.

For Navy

Navy opposes favorable treatment of UURF petition. Navy includes a copy of a communication between the parties indicating to UURF that Navy will not agree to jointly sign any further communications to the USPTO in the instant application. It is apparent that the filing of the instant opposition by Navy in the absence of the signature of UURF counsel was triggered by the unilateral actions of UURF in filing the above-noted communications in the first instance.

Caveat:

A re-reading of the decision mailed July 14, 2004, indicates that the requirement for the joint signatures of counsel for each party on every forthcoming communication was quite clear and unambiguous. UURF was advised that it was free to file its own continuing application, but that further correspondence filed herein was required to be signed by counsel for **both parties**. UURF however, has chosen to ignore that requirement, which was imposed as a condition of granting UURF's own request for separate representation.

UURF's representative is placed on notice that the Office considers the filing of a petition or other paper on behalf of a party having, in of itself, no separate standing in an application, and not otherwise authorized by the rules of practice, to be a petition or paper presented for an improper purpose (37 CFR 10.18). For example, the filing of a paper on behalf of a party in situations not authorized by the rules of practice delays the examination and processing of applications, which may cause harm to the general public if it results in the Office missing any one of the examination time frames specified in 35 U.S.C. §§ 154(b)(1)(A) or 154(b)(1)(B). Therefore, the Office may refer any further unilaterally filed third party petition or any other communication not containing the signatures of counsel for both parties in this application to the Office of Enrollment and Discipline for appropriate action.

This application is being referenced to the Technology Center (TC). The TC is advised that any communication filed subsequent to the decision mailed July 14, 2004, that is not signed by duly appointed counsel for **both parties** must be regarded as informal, and as such, to take such action as it deems appropriate.

Telephone inquiries related to this decision should be addressed to the undersigned at (571) 272-3217.

Brian Hearn
Petitions Examiner
Office of Petitions

cc:

Kenneth Horton
Kirton & Mcconkie
1800 Eagle Gate Tower
60 East South Temple
Salt Lake City Utah 84111

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United States Patent and Trademark Office
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Office of Counsel Code 004
Naval Surface Warfare Center
Carderock Division Headquarters
9500 MacArthur Boulevard
West Bethesda MD 20817-5700

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OFFICE OF PETITIONS

In re Application of	:
Clark et al.	:
Application No. 10/182,095	: DECISION ON PETITION
Filed: July 24, 2002	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 82,199	:

This is a decision on the petition under 37 CFR 1.78(a)(6), filed November 26, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional application.

The petition is **DISMISSED.**

The petition has not been considered on the merits since it was not signed by counsel for both the University of Utah Research Foundation (UURF) and the Department of the Navy (Navy). As noted in the petition decision mailed August 22, 2005, further correspondence filed in this application was required to be signed by counsel for both parties. Here, the petition was only signed by David A. Ghatt as representative for the Navy and is regarded as informal. No consideration on the merits will be given until the petition is appropriately signed by both parties.

Moreover, similar to the notice given to UURF's representative in the decision mailed August 22, 2005, Navy's representative is placed on notice that the Office considers the filing of a petition or other paper on behalf of a party having, in of itself, no separate standing in an application, and not otherwise authorized by the rules of practice, to be a petition or paper presented for an improper purpose (37 CFR 10.18). For example, the filing of a paper on behalf of a party in situations not authorized by the rules of practice delays the examination and processing of applications, which may cause harm to the general public if it results in the Office missing any one of the examination time frames specified in 35 U.S.C. §§ 154(b)(1)(A) or 154(b)(1)(B). Therefore, the Office may refer any further unilaterally filed third party petition or any other communication not containing the signatures of counsel for both parties in this application to the Office of Enrollment and Discipline for appropriate action.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

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
By internet:	EFS-Web[1]

Any questions concerning this matter may be directed to Christopher Bottorff at (571) 272-6692.

David Bucci
Petitions Examiner
Office of Petitions

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

30 JAN 2003

#7

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

30 JAN 2003

Monique A. Morneault
Wallenstein & Wagner
311 South Wacker Drive - 5300
Chicago, Illinois 60606

In re Application of	:	
BISHOP et al.	:	
Application No.: 10/182,102	:	DECISION ON PETITION
PCT No.: PCT/GB01/00227	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 22 January 2001	:	
Priority Date: 22 January 2000	:	
Attorney Docket No.: 3575 P 002	:	
For: PRECISION PROCESSES TEXTILES	:	

The petition to revive under 37 CFR 1.137(b) filed 02 October 2002 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has submitted the basic national fee of $890 and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration along with the $130 surcharge for filing the oath or declaration after the thirty-month period is required.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (703) 308-6314
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Monique A Morneault
Wallenstein & Wagner
53rd Floor
311 South Wacker Drive
Chicago IL 60606

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SEP 2 0 2005

OFFICE OF PETITIONS

In re Application of :
Bishop, et al. :
Application No. 10/182,102 : ON PETITION
Filed: April 11, 2003 :
Attorney Docket No. 3575 P 002 :
For: TEXTILE TREATMENT

This is a decision on the petition under 37 CFR 1.137(b), filed on July 15, 2005 (certificate of mailing date July 12, 2005) to revive the above-identified application.

The above-identified application became abandoned for failure to properly reply to the final Office action mailed December 15, 2004 which set an extendable three (3) month period for reply. An amendment after final, filed April 18, 2005 (certificate of mailing date April 14, 2005), failed to place this application in *prima facie* condition for allowance, as was explained in the June 13, 2005 Advisory action. Therefore, this application became abandoned on April 16, 2005. A Notice of Abandonment was mailed on July 5, 2005.

Applicants have submitted a RCE and required fee and amendment (the previously not entered amendment filed April 18, 2005 (certificate of mailing date April 14, 2005)) in reply to the December 15, 2004 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the December 15, 2004 final Office action, and the petition fee.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center 1700's technical support staff for processing the RCE filed on July 15, 2005.

Telephone inquiries pertaining to this decision may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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#9

10 SEP 2003

Rankin Hill Porter & Clark
925 Euclid Ave, Suite 700
Cleveland, OH 44115-1405

In re Application of GEORGIADES, Jerzy A. Application No.: 10/182,110 PCT No.: PCT/GB01/00329 Int. Filing Date: 26 January 2001 Priority Date: 26 January 2000 Attorney Docket No.: AAT-14173 For: PEPTIDE FRAGMENTS OF COLOSTRININ AND THEIR USE	DECISION ON PETITION UNDER 37 CFR 1.47(b)

This is a decision on applicant's "Petition Under 37 CFR §1.47(b)," filed in the United States Patent and Trademark Office (USPTO) on 21 April 2003.

BACKGROUND

On 26 January 2001, applicant filed international application PCT/GB01/00329, which claimed a priority date of 26 January 2000. A copy of the international application was transmitted to the United States Patent and Trademark Office on 02 August 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 22 August 2001, within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 26 July 2002.

On 24 July 2002, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 18 October 2002, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

On 21 April 2003, applicant submitted a petition under 37 CFR 1.47(b), accompanied by the fee for a four month extension of time.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Items (1), (2), (3), (4) and (6) have been met. (1) The petition fee of $130 under 37 CFR 1.17(h) will be charged to deposit account no. 18-0160, as authorized. (2) Applicant has furnished evidence that tje inventor has refused to execute a declaration of inventorship after presentation with a complete copy of the application papers. (3) Applicant states the last known mailing address of Mr. Jerzy A. Georgiades as 9615 Bayou Brook, Houston, TX 77063. (6) Applicant has demonstrated that irreparable harm will result if the application is not permitted to proceed.

Item (5) has not been met. Applicant relies on a service agreement to demonstrate ownership of the instant patent application. "When such an agreement is relied on, it must be established by a statement of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant." MPEP §409.03(f). Mr. Small does not state that he has first hand knowledge that the invention was made by Mr. Georgiades, while under contract to ReGen Therapeutics PLC and within the scope of that contract.

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.47(b) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)". No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Richard Cole
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 703-305-0455
Facsimile: 703-308-6459

29 MAR 2004

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Rankin Hill Porter & Clark
925 Euclid Ave, Suite 700
Cleveland, OH 44115-1405

In re Application of GEORGIADES, Jerzy A. Application No.: 10/182,110 PCT No.: PCT/GB01/00329 Int. Filing Date: 26 January 2001 Priority Date: 26 January 2000 Attorney Docket No.: AAT-14173 For: PEPTIDE FRAGMENTS OF COLOSTRININ AND THEIR USE	DECISION ON PETITION UNDER 37 CFR 1.47(b)

This is a decision on applicant's "Renewed Petition Under 37 CFR §1.47(b)," filed in the United States Patent and Trademark Office (USPTO) by facsimile on 27 February 2004.

BACKGROUND

On 26 January 2001, applicant filed international application PCT/GB01/00329, which claimed a priority date of 26 January 2000. A copy of the international application was transmitted to the United States Patent and Trademark Office on 02 August 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 22 August 2001, within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 26 July 2002.

On 24 July 2002, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 18 October 2002, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

On 21 April 2003, applicant submitted a petition under 37 CFR 1.47(b), accompanied by the fee for a four month extension of time.

On 10 September 2003, the Office mailed Decision On Petition, dismissing applicant's petition without prejudice.

On 27 February 2004, applicant submitted a postcard receipt date stamped "07 November 2003" and a copy of a renewed petition under 37 CFR 1.47(b).

On 05 March 2004, applicant submitted a statement that the 27 February 2004 submission was a true copy of the correspondence mailed to the Office on 05 November 2004.

DISCUSSION

Applicant states that the 27 February 2004 submission is a copy of the papers mailed to the Office on 05 November 2003. The postcard receipt indicates that the papers mailed 05 November 2003 were received on 07 November 2003 and lists a renewed petition. The 27 February 2004 submission is accepted as having been received on 07 November 2003.

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Items (1), (2), (3), (4) and (6) were previously satisfied.

Item (5) has now been satisfied. Mr. Small states that he has first hand knowledge that the invention was made by Mr. Georgiades, while under contract to ReGen Therapeutics PLC and within the scope of that contract.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.47(b) is **GRANTED**.

As provided in 37 CFR 1.47(b), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record.

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.

A notice of the filing of the application under 37 CFR 1.47(b) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including accordation of a date under 35 U.S.C.§§371(c)(1), (c)(2) and (c)(4) of **21 April 2003**.

Richard Cole
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 703-305-0455
Facsimile: 703-308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE
27 SEP 2002
#4
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Oliff & Berridge, PLC
P.O. Box 19928
Alexandria, VA 22320

In re Application of	:	
Elaissari et al.	:	DECISION ON
Application No. 10/182,126	:	
PCT No.: PCT/FR01/00205	:	PETITION UNDER
Int. Filing Date: 22 January 2001	:	
Priority Date: 21 January 2000	:	37 CFR 1.137(b)
For: Method For Isolating Proteins Or	:	
Protein And Nucleic Acid	:	
Associations, Or Particle And	:	
Protein Complexes, Reagent...	:	

This is in response to the petition under 37 CFR 1.137(b) filed on 26 July 2002.

BACKGROUND

This international application was filed on 22 January 2001 and claimed earliest priority of an application filed on 21 January 2000. The International Bureau transmitted a copy of the published international application to the USPTO on 26 July 2001. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 22 July 2002 (as 21 July was a Sunday). This international application became abandoned with respect to the United States for failure to timely pay the required basic national fee.

On 26 July 2002, applicants filed the instant petition.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Regarding requirement (1), applicants have filed the required reply in the form of the

basic national fee.

Regarding requirement (2), the petition fee accompanied the petition.

Regarding requirement (3), the petition includes a statement that "the entire delay in filing the attached materials until the filing of this petition was unintentional." This statement is being construed as a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement in the petition is not correct. Thus, the statement in the petition is being accepted in satisfaction of 37 CFR 1.137(b)(3).

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the submission of an oath or declaration, a translation of the international application, a processing fee under 37 CFR 1.492(f) and a surcharge under 37 CFR 1.492(e).

Leonard Smith

for Boris Milef
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459

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CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON, MA 02110

Mail Date: 05/20/2010

Applicant	: Thomas Eschenhagen	: DECISION ON REQUEST FOR
Patent Number	: 7618452	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/182,131	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/03/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1530** 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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Dilworth & Barrese LLP.
333 Earle Ovington Boulevard
Uniondale, NY 11553

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DEC 1 1 2003

Director's Office
Group 3700

In re Application of
Eugen Schmid
Serial No. 10/182,154
Filed: December 2, 2002
For: Refrigerating appliance comprising a refrigerating compartment, a cold storage compartment and a freezer compartment

DECISION ON PETITION

This is a decision on petitioner's request filed November 3, 2003 to review the holding of abandonment, mailed October 22, 2003 for failure to submit new formal drawings in response to the Notice of Allowability of June 3, 2003.

In support of the request, petitioner has submitted a copy of a response and a copy of a PTO stamped post card receipt dated September 5, 2003.

In view of the above, the Notice of Abandonment mailed October 22, 2003 is in error and is hereby vacated. The holding of abandonment is withdrawn. This application is being forwarded to the examiner for appropriate action.

Summary: Holding of Abandonment Withdrawn.

Richard A. Bertsch

Richard Bertsch, Director
Groups 3740 & 3750
Phone: (703) 308-0975
Fax: (703) 308-7764
DE

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Director's Office
Group 3700

Paper No. 12

In re Application of
Eugen Schmid
Application No. 10/1182,154
Filed: July 25, 2002
Attorney Docket No. 298-160

: DECISION ON PETITION

This is a decision on the petition filed by facsimile transmission on December 16, 2003 by which petitioner invokes supervisory authority under 37 CFR 1.181 to compel the examiner to consider certain prior art information listed on the Information Disclosure Statement (IDS) filed on December 2, 2002. No fee is required for the petition.

The petition is granted-in-part.

It appears from the record that the examiner considered only some of the documents listed on the IDS in question, and refused consideration to other of the documents because they were not in the English language and were not translated.

37 CFR 1.97 and 1.98, as well as MPEP § 609 govern the practice with respect to citation of prior art, and consideration by the examiner of prior art cited. Petitioners' position, as expressed on pages 1 and 2 of the petition, is well take with respect to the prior art mentioned on page 1 of the petition. Therefore, petitioner is entitled to have DE 8914761 considered since it is mentioned in a Search Report that categorizes the document as discussed on page 3 of the petition. However, the record is devoid of a "Search Report from the priority German application."

Accordingly, this application is being remanded to the SPE of Art Unit3744 with instructions to have the examiner consider prior art document DE 8914761, and take appropriate action so that the record reflects such consideration. If consideration does not result in a necessity to withdraw the application from issue, the application should thereafter be forwarded to the Office of Patent Publication for processing into a patent. The issue and publication fees having been paid.

PETITION GRANTED-IN-PART.

Richard A. Bertsch, Director
Technology Center 3700

Dilworth & Barrese, LLP
333 Earle Ovington Blvd.
Uniondale, NY 11533

UNITED STATES PATENT AND TRADEMARK OFFICE

#15

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George M. Kaplan
Dilworth & Barrese LLP
333 Earle Ovington Blvd.
Uniondale, N.Y. 11553

In re Application of: Eugene Schmid	:	
Appl. No.: 10/182,154	:	DECISION ON PETITION
Filed: July 25, 2002	:	
For: Refrigerating Appliance Comprising a Refrigerator	:	

This is a decision on the renewed petition filed by facsimile transmission on Oct. 6, 2004 by which petitioner invokes supervisory authority under 37 CFR 1.181 to compel the examiner to consider certain prior art information listed on the Information Disclosure Statement (IDS) filed on Dec. 2, 20002.

The petition is granted.

It appears from the record that the examiner has considered most of the prior art references cited in the IDS in accordance with the decision mailed on Sept. 10, 2004. Petitioner has now filed a copy of the PCT/PTO mailroom receipt showing the receipt of the priority German Search Report. Therefore, the IDS statement filed on Dec. 2, 2002 is in compliance with 37 CFR 1.97 and 1.98 as well as MPEP 609.

Accordingly, the application is being forwarded to the Supervisory Patent Examiner of Art Unit 3744 who will have the examiner consider the remainder prior art references listed on the IDS. Should petitioner have any further questions, he is invited to contact TC 3700 SPRE Henry Yuen at 571-272-4856.

PETITION GRANTED

Karen M. Young

Karen Young
Technology Center 3700

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____.

DATE : 03/02/10

TO SPE OF : ART UNIT 3781

SUBJECT : Request for Certificate of Correction for Appl. No.: 10182165 Patent No.: 6796450

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

XApproved	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

/Anthony D Stashick/____ _3781__
SPE **Art Unit**

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SENNIGER POWERS LLP
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16TH FLOOR
ST LOUIS, MO 63102

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JAN 30 2008

OFFICE OF PETITIONS

In re Application of	:	
Osamu Izumisawa, et al.	:	
Application No.: 10/182,167	:	ON PETITION
Filed: November 8, 2002	:	
Attorney Docket No.: SHO 8835.14	:	

This is a decision on the petition, filed January 28, 2008, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination) filed January 29, 2008. See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 11, 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 3721 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 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.*

Rec'd PCT/PTO 23 DEC 2002

60,158-194
Formrite #79

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Charles Ray Cooper
Serial No.:	10/182,171
Filed:	July 25, 2002
Group Art Unit:	Unknown
Examiner:	Unknown
Title:	APPARATUS FOR ADHERING A CLAMP TO A HOSE

PETITION UNDER RULE 37 CFR 1.47(a)

Box PCT
Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

Two inventors of the above-referenced application, Ray Cooper and Chad Fackler, have effectively refused to execute this application. The owner of this application is Cooper Technology Services, LLC ("Cooper"). The other inventor is acting on behalf of himself and on behalf of Mr. Charles R. Cooper and Mr. Chad Fackler.

The reasons for this action are set forth below.

Mr. Cooper and Mr. Fackler were employed by Cooper, and under an obligation to assign inventions to Meritor. Mr. Cooper and Mr. Fackler have left Cooper. Chris Kargula, Engineering Services Manager for Cooper, has been searching for Mr. Cooper and Mr. Fackler. A statement signed by Chris Kargula is attached as **Exhibit A.** Mr. Kargula sent a draft of the above-referenced application to Mr. Cooper by letter of November 25, 2002 (copy attached as **Exhibit B**) and to Mr. Fackler by letter of November 25, 2002 (copy attached as **Exhibit C**).

The letter to Mr. Cooper was returned to Mr. Kargula by the United States Postal Service. A copy of the returned envelope is attached as **Exhibit D**. The envelope was marked as "Not deliverable as addressed- unable to forward." No further information about Mr. Cooper is currently known. Karin Butchko and Christine Minton of Carlson, Gaskey & Olds have also performed internet searches for Mr. Cooper. A search performed on Yahoo is attached as **Exhibit E**. This search found 51 listings for "Charles Cooper" in the state of Kentucky, the state of Mr. Cooper's

last known address. Of these 51 "Charles Cooper" listings, 38 are either "Charles Cooper" or "Charles R. Cooper." A search was also performed on USSearch and is attached as **Exhibit F**. This search found 39 listings for "Charles Cooper" in the state of Kentucky. Of these 39 listings, 13 of the listings are for "Charles Cooper" without any initials. A nationwide search for "Charles R. Cooper" was also performed on USSeach **(Exhibit G).** This search obtained 244 listings of "Charles R. Cooper" in the United States. Applicant has made a diligent effort to locate Mr. Cooper.

To date, no response has been received from Mr. Fackler.

A check in the amount of $130.00 is enclosed for this petition. The Commissioner is authorized to charge Deposit Account No. 50-1482, in the name of Carlson, Gaskey & Olds, P.C., for any additional fees or credit the account for any overpayment.

Petitioner has presented evidence that diligent efforts have been made to locate Mr. Cooper and Mr. Fackler. For the reasons set forth above, Applicant submits that the filing of this application under Rule 37 CFR 1.47(a) is proper. Applicant asks that processing of this application now proceed.

Respectfully submitted,

CARLSON, GASKEY & OLDS, P.C.

Karin Butchko

Karin H. Butchko
Registration No. 45,864
Attorneys for Applicant
400 West Maple Road, Suite 350
Birmingham, Michigan 48009
(248) 988-8360

Dated: December 16, 2002

CERTIFICATE OF MAILING

I hereby certify that this Petition and accompanying documents are being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to Box PCT, Commissioner for Patents, Washington, D.C. 20231, on December 16, 2002.

Tracey Belanger

Tracey Belanger

N:\clients\Formrite\ip00194\patent\Petition.doc

Rec'd PCT/PTO 23 DEC 2002

Docket No.: 60,158-194

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Charles Ray Cooper	Group Art Unit:	Unknown
Serial No.:	10/182,171	Examiner:	Unknown
Filed:	July 25, 2002		
Title:	APPARATUS FOR ADHERING A CLAMP TO A HOSE		

STATEMENT OF LAST KNOWN ADDRESS

Box PCT
Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

The last known address of the refusing inventors, Charles Ray Cooper and Chad Fackler, are:

Charles Ray Cooper 4224 Sugarloaf Mountain Road Moreheat, Kentucky 40351	Chad Fackler 342 North Ash Deshler, Ohio 43516

To the best of my knowledge and information, I believe these were the last known addresses for Messers. Cooper and Fackler.

Respectfully submitted,

CARLSON, GASKEY & OLDS, P.C.

Karin Butchko

Karin H. Butchko
Registration No. 45,864
Attorneys for Applicant
400 West Maple Road, Suite 350
Birmingham, Michigan 48009
(248) 988-8360

Dated: December 16, 2002

CERTIFICATE OF MAILING

I hereby certify that this Statement and accompanying documents are being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to Box PCT, Commissioner for Patents, Washington, D.C. 20231, on December 16, 2002.

Tracey Belanger

Tracey Belanger

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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

#6

13 JUN 2003

Karin H. Butchko
Carlson, Gaskey, & Olds, P.C.
400 West Maple Road, Suite 350
Birmingham, Michigan 48009

In re Application of	:	
COOPER et al.	:	
U.S. Application No.: 10/182,171	:	DECISION ON PETITION
PCT No.: PCT/US01/02535	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 26 January 2001	:	
Priority Date: 28 January 2000	:	
Attorney Docket No.: 60158-194	:	
For: APPARATUS FOR ADHERING A CLAMP TO A HOSE	:	

This is a decision on applicants' "PETITION UNDER 37 CFR 1.47(a)" filed 23 December 2003 to accept the application without the signature of joint-inventors, Charles Ray Cooper and Chad Fackler. The required petition fee of $130.00 (37 CFR 1.17(h)) has been submitted.

BACKGROUND

On 26 January 2001, applicants filed international application PCT/US01/02535 which claimed a priority date of 28 January 2000. A Demand was filed with the International Preliminary Examining Authority prior to the 19th month from the earliest claimed priority date. Accordingly, the thirty-month time period for submitting the requisite basic national fee in the United States of America was extended to expire 30 months from the priority date, 28 July 2002.

On 25 July 2002, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a preliminary amendment.

On 16 September 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.492(a) and (b).

On 23 December 2002, applicants filed a Petition under 37 CFR 1.47(a) and a petition for a one-month extension of time.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the non-signing joint inventor. Items (1) and(3) have been satisfied.

As to item (2), section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.), **Proof of Unavailability or Refusal**, states, in part:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> The 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.
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in

> support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

a. Inventor Charles Ray Cooper

Petitioner asserts that Charles Ray Cooper cannot be found or located. A review of the present petition reveals that petitioner has not shown that a "diligent effort" was made to locate the missing inventor. Petitioner has provided a copy of envelope sent to Mr. Cooper that was marked "not deliverable as addressed -unable to forward" and documentary evidence of internet searches for Mr. Cooper. However, petitioner has failed to state whether any of the telephone numbers or mailing addresses, obtained through the internet searches, were used to locate Mr. Cooper. Were any attempts made to contact Mr. Cooper with the telephone numbers or mailing addresses based on the internet searches?

b. Inventor Chad Fackler

A review of the present petition reveals that petitioner has not shown that a bona fide attempt was made to present the application papers (specification, claims, and drawings) to Chad Fackler. The Affidavit of Chris Kargula states that the above-referenced application was sent to Mr. Fackler, however, no response has been received from Mr. Fackler. The single mailing of the papers to the non-signing inventor's last known address does not constitute a "diligent" effort. Additionally, no documentary evidence to support the attempt or the refusal was provided in Mr.Kargula's declaration. As stated above, where a refusal of the inventor to sign the application papers is alleged, a statement of facts is needed from a person having first hand knowledge of the facts that a complete copy of the application papers was sent to Chad Fackler, and when such papers were sent. In addition, copies of documentary evidence such as a certified mail return receipt, cover letter of instruction, telegrams, etc., should be supplied with the declaration.

As to Item (4), the declaration filed on 23 December 2003 is defective pursuant to 37 CFR 1.497(a)(3) which requires that the declaration "identify each inventor and the residence and country of citizenship of each inventor." In this instance, the declaration executed by Joseph Zakrewski does not list Chad Fackler as an inventor. Therefore, a new declaration executed by Joseph Zakrewski, with the first and third co- inventor listed thereon, must be filed in order to fulfill the declaration requirement under 35 U.S.C. 371.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Charles Ray Cooper and Chad Fackler under 37 CFR 1.47(a) at this time.

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTH** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel.: 703-308-6314
Fax: 703-308-6459

JT20 Rec'd PCT/PTO 5 AUG 2003

#7

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Charles Ray Cooper
Serial No.:	10/182,171
Filed:	July 25, 2002
Group Art Unit:	Unknown
Examiner:	Unknown
Title:	APPARATUS FOR ADHERING A CLAMP TO A HOSE

RENEWED PETITION UNDER RULE 37 CFR 1.47(a)

RECEIVED
20 AUG 2003
International Division

MailStop PCT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This Renewed Petition is in response to the Decision Refusing Status under 37 CFR 1.47(a) mailed June 13, 2003. Two inventors of the above-referenced application, Charles Ray Cooper and Chad Fackler, have effectively refused to execute this application. The owner of this application is Cooper Technology Services, LLC ("Cooper"). The other inventor, Joesph Zakrewski, is acting on behalf of himself and on behalf of Mr. Charles R. Cooper and Mr. Chad Fackler.

Applicant previously submitted (1) the fee under 27 CFR 1.17(h) and (3) a statement of the last known address of the missing inventors. With respect to item (2), the Decision on Petition states that factual proof that the missing joint inventors refuse to execute the application or cannot be reached after diligent effort needs to be submitted. The Decision on Petition also states that (4) a new oath or declaration executed by Joseph Zakrewski needs to be submitted.

Charles Ray Cooper

Mr. Cooper was employed by Cooper and under an obligation to assign inventions to Cooper. Mr. Cooper has left Cooper. Chris Kargula, Engineering Services Manager for Cooper, sent the above-referenced application and declaration to Mr. Cooper by letter of November 25, 2002. The package was returned to Mr. Kargula. Copies of the letter and the return envelope were included in the Petition filed December 16, 2002 as Exhibits B and D.

Karin Butchko and Christine Mackiewicz of Carlson, Gaskey & Olds have also performed internet searches for Mr. Cooper. A copy of the previous Internet search was attached to the Petition filed December 16, 2002 as Exhbits E, F and G.

A new updated search was performed on Switchboard.com and is attached as **Exhibit H**. This search found 45 listings for "Charles Cooper" in the state of Kentucky, the state of Mr. Cooper's last known address. Of these 45 "Charles Cooper" listings, 5 are for "Charles R. Cooper." On August 8, 2003, at approximately 3:30 p.m., Ms. Mackiewicz attempted to call the phone numbers associated with the 5 "Charles R. Cooper" listings. The phone number associated with the Mr. Cooper living in Irvington, KY was disconnected. Ms. Mackiewicz also spoke with individuals at the Willamsburg and Willaimstown addresses. Theses individuals stated that there was a Charles R. Cooper living at these addresses, but both stated that the Charles R. Cooper living at these addresses never worked for Cooper. Ms. Mackiewicz also called the phones numbers associated with the Cynthiana and Webbville addresses, but there was no answer. An affidavit signed by Ms. Mackiewicz is attached as **Exhibit I**.

A new updated search was also performed on USSearch and is attached as **Exhibit J**. This search found 29 listings for "Charles R. Cooper" in the state of Kentucky. Three of the listings for "Charles R. Cooper" are in the city of Morehead (listings 13, 14 and 15), the city of Mr. Cooper's last known address. On August 8, 2003, at approximately 3:30 p.m., Ms. Mackiewicz attempted to call the phone numbers associated with these three addresses. Ms. Mackiewicz called the phone number associated with listing 13. The person answering the phone said that nobody named Charles Cooper lived at that address, and that she could not provide any additional information. No phone numbers were associated with the Charles R. Cooper's of listings 14 and 15.

Applicant has made a diligent effort to locate Mr. Cooper.

Chad Fackler

Mr. Fackler was employed by Cooper and under an obligation to assign inventions to Cooper. Mr. Fackler has left Cooper. Chris Kargula previously sent a draft of the above-referenced application to Mr. Fackler by letter of November 25, 2002. A copy of this letter was attached to the Petition filed on December 16, 2002 attached as Exhibit C. No response was heard from Mr. Fackler to the letter dated November 25, 2002. Karin H. Butchko send an additional second reminder letter to Mr. Fackler on July 17, 2003 including a copy of the patent application, a

preliminary amendment, an assignment and a declaration. The letter makes references to the fact that the application is a United States National Phase Patent Application of PCT Application Number PCT/US01/02535. The present application claims priority to PCT Application Number PCT/US01/02535. A copy of this letter is attached as **Exhibit K**. To date, we have heard no response from Mr. Fackler regarding this letter.

Declaration of Joseph Zakrewski

Applicant is also submitting an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the non-signing joint inventor. The enclosed declaration is signed by Joseph Zakrewski and lists Charles Ray Cooper and Chad Fackler as inventors.

Petitioner has presented evidence that diligent efforts have been made to locate Mr. Cooper and Mr. Fackler. For the reasons set forth above, Applicant submits that the filing of this application under Rule 37 CFR 1.47(a) is proper. Applicant asks that processing of this application now proceed.

Petitioner respectfully asks for reconsideration of the petition. Petitioner has presented evidence that diligent efforts have been made to located Mr. Keyes. No further fees are required. However, if any fees are required, the Commissioner is authorized to charge Deposit Account No. 50-1482, in the name of Carlson, Gaskey & Olds, P.C., for any additional fees or credit the account for any overpayment.

Respectfully submitted,

CARLSON, GASKEY & OLDS, P.C.

Karin Butchko

Karin H. Butchko
Registration No. 45,864
Attorneys for Applicant
400 West Maple Road, Suite 350
Birmingham, Michigan 48009
(248) 988-8360

Dated: August 12, 2003

CERTIFICATE OF MAILING

I hereby certify that this Petition and accompanying documents are being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on August 12, 2003.

Amy M. Spaulding

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26 AUG 2003

#8

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Karin H. Butchko
Carlson, Gaskey, & Olds, P.C.
400 West Maple Road, Suite 350
Birmingham, Michigan 48009

In re Application of	:	
COOPER et al.	:	
U.S. Application No.: 10/182,171	:	DECISION ON
PCT No.: PCT/US01/02535	:	RENEWED PETITION
Int. Filing Date: 26 January 2001	:	UNDER 37 CFR 1.47(a)
Priority Date: 28 January 2000	:	
Attorney Docket No.: 60158-194	:	
For: APPARATUS FOR ADHERING A CLAMP TO A HOSE	:	

This is a decision on applicants' "Renewed Petition under 37 CFR 1.47(a)" filed 15 August 2003 to accept the application without the signature of joint-inventors, Ray Cooper and Chad Fackler.

BACKGROUND

On 26 January 2001, applicants filed international application PCT/US01/02535 which claimed a priority date of 28 January 2000. A Demand was filed with the International Preliminary Examining Authority prior to the 19th month from the earliest claimed priority date. Accordingly, the thirty-month time period for submitting the requisite basic national fee in the United States of America was extended to expire 30 months from the priority date, 28 July 2002.

On 25 July 2002, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a preliminary amendment.

On 16 September 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.492(a) and (b).

On 23 December 2002, applicants filed a Petition under 37 CFR 1.47(a) and a petition for a one-month extension of time. In a decision dated 13 June 2003, the "Petition under 37 CFR 1.47(a)" was dismissed because applicants did not provide adequate proof that Ray Cooper and Chad Fackler refused to execute the application or could not be reached after diligent effort.

On 15 August 2003, applicants filed "Renewed Petition under 37 CFR 1.47(a)."

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the non-signing joint inventor. Items (1) and(3) have been satisfied.

a. Inventor Ray Cooper

As to Item (2), a review of the present petition and the accompanying papers reveal that applicants have satisfied item (2), in that the applicants have shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Ray Cooper. The steps taken are sufficient to show that the missing inventor, Ray Cooper, could not be reached after diligent effort.

b. Inventor Chad Fackler

A review of the present petition and the accompanying papers reveal that applicants have satisfied item (2), in that the applicant has shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Chad Fackler. The steps taken by are sufficient to show that Mr. Fackler refuses to execute the application.

As to item (4), the declaration filed on 15 August 2003 is in compliance with 37 CFR 1.497.

Accordingly, it is appropriate to accord the national stage application status under 37 CFR 1.47(a).

CONCLUSION

The renewed petition under 37 CFR 1.47(a) is **GRANTED**.

The application will be given an international filing date of 26 January 2001 under 35 U.S.C. 363, and a date of **15 August 2003** under 35 U.S.C. 371(c).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel.: 703-308-6314
Fax: 703-308-6459

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ALEXANDRIA, VA 22313-1450
www.uspto.gov

Agouron Pharmaceuticals, Inc.
10350 North Torrey Pines Road
La Jolla, CA 92037

COPY MAILED

FEB 11 2005

OFFICE OF PETITIONS

In re Application of	:	
Richard J. Booth, et al.	:	
Application No. 10/182,178	:	ON PETITION
Filed: July 24, 2002	:	
Attorney Docket No. A0000084-01-RG	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 21, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The 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.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to Technology Center 1600.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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BIRCH STEWART KOLASCH & BIRCH
P.O. BOX 747
FALLS CHURCH VA 22040-0747

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JUN 0 3 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of
Hiromu Ohnogi et al
Application No. 10/182,193
Filed: July 26, 2002
Attorney Docket No. 1422-0546P

This is a decision on the petition, filed June 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 April 16, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 1625 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

23 OCT 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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OIPE JC176
OCT 2 3 2003
PATENT & TRADEMARK OFFICE

Sughrue Mion, PLLC
2100 Pennsylvania Avenue, N.W.
Washington, D.C. 20037

In re Application of
BEVIS et al.
Application No.: 10/182,202
PCT No.: PCT/GB01/00153
Int. Filing Date: 15 January 2001
Priority Date: 28 January 2000
Attorney Docket No.: Q71295
For: TORIC LENS MANUFACTURE

DECISION

This decision is in response to "Petition under 37 CFR 1.47(a)" filed 16 April 2003.

The petition for status under 37 CFR 1.47(a) is moot since the declaration filed 02 June 2003 was executed by the named inventors, the previous non-signing inventors, Barrie Bevis and Michael James Kelly. The declaration filed 02 June 2003 is acceptable under 37 CFR 1.497.

For the reasons above, the petition under 37 CFR 1.47(a) is **DISMISSED** as moot. The application need not be returned to this Office for any further consideration of Rule 1.47 status and no such status should be indicated on this application file.

The application has an international filing date of 15 January 2001 under 35 U.S.C. 363 and a date of **02 June 2003** under 35 U.S.C. 371(c).

The application is being returned to the International Division for processing as the U.S. National Stage of the above-identified international application.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel.: 703-308-6314
Fax: 703-308-6459

22 DEC 2003

#8

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
www.uspto.gov

Adriane M. Antler
PENNIE & EDMONDS LLP
1155 Avenue of the Americas
New York, NY 10036-2711

DECISION ON PETITION UNDER 37 CFR 1.78 (a)(6)

In re application of Brenner et al.
US Application No.: 10/182,209
PCT Application No.: PCT/US01/01661
International Filing Date: 18 January 2001
Priority Date: 20 January 2000
Docket No.: 9301-072-999

For: BARCODED SYNTHETIC LETHAL SCREENING TO IDENTIFY DRUG TARGETS

This is in response to the petition filed 29 September 2003 under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim for the benefit of a prior filed provisional application.

BACKGROUND

On 18 January 2001, applicants filed international application PCT/US01/01661, which claimed priority to an earlier application, filed 20 January 2000. A Demand for international preliminary examination was timely filed.

On 22 July 2002, applicants filed a submission under 35 USC 371 to enter the national stage including the payment of the basic national fee. The submission was assigned application No. 10/182, 209.

On 29 September 2003, applicants filed the instant petition under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim for the benefit of a prior filed provisional application. This petition further includes an authorization to charge Pennie & Edmonds LLP's Deposit Account No. 16-1150 as required by 37 C.F.R. 1.17(t).

DISCUSSION

Under section 37 CFR 1.78(a)(6):

A petition to accept an unintentionally delayed claim under 35 U.S.C. 119(e) for the benefit of a prior filed provisional application must be accompanied by:

(1) The reference required by 35USC 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 paragraph (a)(5) of this section 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.

Regarding item (1), the petition is accompanied by a preliminary amendment adding the required reference to the first sentence of the specification.

Regarding item (2), applicants includes an authorization in the instant petition to charge Pennie & Edmonds LLP's Deposit Account No. 16-1150 the petition surcharge as required by 37 C.F.R. 1.17(t).

Regarding item (3), applicants stated in the petition that the entire delay between (a) November 22, 2002 (the date the claim was due under 37 C.F.R. 1.78(a)(5)(ii); four months from the date on which the national stage commenced), and (b) the filing date of this petition and amendment, was unintentional.

A petition surcharge of $1300.00 will be charged to the Pennie & Edmonds LLP's Deposit Account No. 16-1150.

Accordingly, applicants have satisfied the requirements of 37 U.S.C. 1.78(a)(6).

The granting of the petition to accept the delayed benefit claim to the prior-filed application(s) under 37 CFR 1.78(a) 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 applications(s), all other requirements under 35 USC 119(e) and 37 CFR 1.78 (a)(4) and (5) must be met. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

Application No.: 10/182,209

CONCLUSION

The request to accept an unintentionally delayed claim under 37 U.S.C. 1.78(a)(6) is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application in accordance with this decision including indicating, when a Filing Receipt is issued, the benefit claim to provincial application 60/177,460.

Shih-yung Hsieh
PCT Legal Detailee
PCT Legal Office
Telephone: (703) 308-6162
Facsimile: (703) 308-6459

Boris Milef
PCT Legal Examiner
PCT Legal Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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Edwin V Merkel
Nixon Peabody LLP
1100 Clinton Square
Rochester, NY 14604

Mail Date: 04/21/2010

Applicant	: Richard Bancroft	: DECISION ON REQUEST FOR
Patent Number	: 7608219	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/182,213	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/07/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **796** 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.

23 OCT 2002

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WASHINGTON, D.C. 20231
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Douglas E. Denninger
UNITED STATES SURGICAL,
A DIVISION OF TYCO HEALTHCARE GROUP, LP
150 Glover Avenue
Norwalk, CT 06856

In re Application of :
MANZO, Scott E. :
U.S. Application No.: 10/182,215 :
PCT No.: PCT/US01/02043 :
Int. Filing Date: 18 January 2001 :
Priority Date: 18 January 2000 :
Attorney Docket No.: 2599PCT (203-2286PCT) :
For: ANASTOMOSIS INSTRUMENT AND :
METHOD FOR PERFORMING SAME :

DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)

Applicant's "Petition for Revival of an International Application for Patent Designating the US Abandoned Unintentionally Under 37 CFR 1.137(b)" filed with the national stage papers on 25 July 2002 is hereby **GRANTED** as follows:

The appropriate basic national fee, surcharge fee and petition fee have been paid. Applicant states that "[t]he entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3). A terminal disclaimer is not required in this case. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

The declaration filed with the national stage papers is in compliance with 37 CFR 1.497(a) and (b).

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 18 January 2001, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of **25 July 2002**.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

08 JAN 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Henry D. Coleman
COLEMAN SUDOL SAPONE, P.C.
714 Colorado Avenue
Bridgeport, CT 06605-1601

In re Application of: ARADI, Janos, et al. U.S. Application No.: 10/182,224 PCT No.: PCT/US01/00280 International Filing Date: 05 January 2001 Priority Date: 06 January 2000 Attorney's Docket No.: D11-031 For: METHODS FOR INHIBITING/TREATING HIV INFECTIONS AND AIDS RELATED SYMPTOMS	DECISION ON PETITION TO REVIVE ABANDONED APPLICATION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 24 July 2002 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

Applicants have now submitted the small entity basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Missing Requirements requiring submission of an oath or declaration in compliance with 37 CFR 1.497.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

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Paper No. 13

Accenture
C/O Morrison & Foerster
755 Page Mill Road
Palo Alto, CA 94304

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JUL 0 1 2004

Technology Center 2100

In re Application of:
Markus HELLENTHAL
Application No. 10/182,231
Filed: July 24, 2002
For: INFORMATION SERVICE SYSTEM

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed June 15, 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: Joel Benson
Brinks Hofer Gilson & Lione
455 N. Cityfront Plaza Drive
Chicago, IL 60611-5599

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Donald C. Lucas
Bierman, Muserlian and Lucas LLP
600 Third Avenue
New York, New York 10016

In re Application of OYSTEIN et al. Application No.: 10/182,237 PCT No.: PCT/NO01/00029 Filing Date: 29 January 2001 Priority Date: 31 January 2000 Atty. Docket No.: E-1036 For: METHOD FOR REFINING OF STEEL, GRAIN REFINING ALLOY FOR STEEL AND METHOD FOR PRODUCING GRAIN REFINING ALLOY	DECISION ON PETITION UNDER 37 CFR 1.182

This decision is in response to "Petition for Entry Into National Stage under 35 USC 371" filed 06 December 2002 which has been treated as a petition under 37 CFR 1.182. The requisite $130.00 petition fee has been submitted.

BACKGROUND

On 29 January 2001, applicant filed international application no. PCT/NO01/00029 which claimed a priority date of 31 January 2000, and designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 09 August 2001. A Demand was filed with the International Preliminary Examining Authority. As a result, the deadline for entry into the national stage in the United States expired 30 months from the priority date, on 31 July 2002.

On 23 July 2002, applicant filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials: an authorization to charge deposit account the basic national fee of $1040; a preliminary amendment; and a declaration executing PCT/NO01/00029. However, the Transmittal Letter submitted by the applicant misidentified the international application number as PCT/US01/00029; the Transmittal Letter otherwise properly identifies the title, inventor, international filing date, and priority date for the intended application PCT/NO01/00029.

Based on the erroneous international application number listed on the Transmittal Letter, the present national stage application file was created for PCT/US01/00029, rather than for PCT/NO01/00029.

On 20 September 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Acceptance indicating that the 35 U.S.C. 371 date for the present

application was 23 July 2002. However, the Notification Of Acceptance identified the application as a national stage of PCT/US01/00029, as did the filing receipt.

On 06 December 2002, applicant filed "Petition for Entry Into National Stage under 35 USC 371."

DISCUSSION

In the present petition, applicant confirms that the listing of PCT/US01/00029 in the original Transmittal Letter was an error, and that it was applicant's intent for the Transmittal Letter to refer to PCT/NO01/00029 as listed on the international application attached to the original Transmittal Letter and the executed declaration submitted with the original Transmittal Letter. Applicant has provided the required $130 petition fee to correct the error on the Transmittal Letter filed 23 July 2002. Accordingly, the petition under 37 CFR 1.182 is granted. This national stage file (10/182,237) is the national stage of PCT/NO01/00029.

Based on the above, the Notification Of Acceptance mailed 18 January 2002 and the filing receipt (both of which reference PCT/US01/00029 rather than PCT/NO01/00029), are appropriately vacated.

CONCLUSION

The petition under 37 CFR 1.182 is **GRANTED**.

This application is the national stage of 10/182,237 with an international filing date of 29 January 2001 and a 35 U.S.C. 371 date of 23 July 2002.

All documents pertaining to PCT/US01/00029 have been removed from the present application file.

The Notification Of Acceptance mailed 20 September 2002 and the corresponding filing receipt are hereby **VACATED** based on their incorrect reference to PCT/US01/00029.

This application is being returned to the National Stage Processing Branch of the Office Of PCT Operations for processing in accord with this decision, including: (1) correcting USPTO records so as to identify the present application as a national stage of PCT/NO01/00029; and (2) issuing a corrected Notification Of Acceptance and corrected filing receipt which refer to the proper international application number (PCT/NO01/00029); and (3) returning this application to the appropriate Group Art Unit for examination.

Anthony Smith

Anthony Smith
Attorney-Attorney
Office of PCT Legal Administration
Tel. (703) 308-6314
Fax (703) 308-6459

E-1036

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JUN 25 2003
MUSERLIAN, LUCAS AND MERCANTI LLP

Donald C. Lucas
Bierman, Muserlian and Lucas LLP
600 Third Avenue
New York, New York 10016

In re Application of OYSTEIN et al. Application No.: 10/182,237 PCT No.: PCT/NO01/00029 Filing Date: 29 January 2001 Priority Date: 31 January 2000 Atty. Docket No.: E-1036 For: METHOD FOR REFINING OF STEEL, GRAIN REFINING ALLOY FOR STEEL AND METHOD FOR PRODUCING GRAIN REFINING ALLOY	DECISION ON PETITION UNDER 37 CFR 1.182

This decision is in response to "Petition for Entry Into National Stage under 35 USC 371" filed 06 December 2002 which has been treated as a petition under 37 CFR 1.182. The requisite $130.00 petition fee has been submitted.

BACKGROUND

On 29 January 2001, applicant filed international application no. PCT/NO01/00029 which claimed a priority date of 31 January 2000, and designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 09 August 2001. A Demand was filed with the International Preliminary Examining Authority. As a result, the deadline for entry into the national stage in the United States expired 30 months from the priority date, on 31 July 2002.

On 23 July 2002, applicant filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials: an authorization to charge deposit account the basic national fee of $1040; a preliminary amendment; and a declaration executing PCT/NO01/00029. However, the Transmittal Letter submitted by the applicant misidentified the international application number as PCT/US01/00029; the Transmittal Letter otherwise properly identifies the title, inventor, international filing date, and priority date for the intended application PCT/NO01/00029.

Based on the erroneous international application number listed on the Transmittal Letter, the present national stage application file was created for PCT/US01/00029, rather than for PCT/NO01/00029.

On 20 September 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Acceptance indicating that the 35 U.S.C. 371 date for the present

8/23/05 flu

application was 23 July 2002. However, the Notification Of Acceptance identified the application as a national stage of PCT/US01/00029, as did the filing receipt.

On 06 December 2002, applicant filed "Petition for Entry Into National Stage under 35 USC 371."

DISCUSSION

In the present petition, applicant confirms that the listing of PCT/US01/00029 in the original Transmittal Letter was an error, and that it was applicant's intent for the Transmittal Letter to refer to PCT/NO01/00029 as listed on the international application attached to the original Transmittal Letter and the executed declaration submitted with the original Transmittal Letter. Applicant has provided the required $130 petition fee to correct the error on the Transmittal Letter filed 23 July 2002. Accordingly, the petition under 37 CFR 1.182 is granted. This national stage file (10/182,237) is the national stage of PCT/NO01/00029.

Based on the above, the Notification Of Acceptance mailed 18 January 2002 and the filing receipt (both of which reference PCT/US01/00029 rather than PCT/NO01/00029), are appropriately vacated.

CONCLUSION

The petition under 37 CFR 1.182 is **GRANTED**.

This application is the national stage of 10/182,237 with an international filing date of 29 January 2001 and a 35 U.S.C. 371 date of 23 July 2002.

All documents pertaining to PCT/US01/00029 have been removed from the present application file.

The Notification Of Acceptance mailed 20 September 2002 and the corresponding filing receipt are hereby **VACATED** based on their incorrect reference to PCT/US01/00029.

This application is being returned to the National Stage Processing Branch of the Office Of PCT Operations for processing in accord with this decision, including: (1) correcting USPTO records so as to identify the present application as a national stage of PCT/NO01/00029; and (2) issuing a corrected Notification Of Acceptance and corrected filing receipt which refer to the proper international application number (PCT/NO01/00029); and (3) returning this application to the appropriate Group Art Unit for examination.

Anthony Smith

Anthony Smith
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17 SEP 2003

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Kubovcik & Kubovcik
Suite 710
900 17th Street NW
Washington, DC 20006

In re Application of	:	
Leskela et al.	:	
Application No.: 10/182,256	:	
PCT No.: PCT/FI01/00083	:	
Int. Filing Date: 29 January 2001	:	DECISION
Priority Date: 28 January 2000	:	
Attorney Docket No.: LAIN-042; SERL 20 US	:	
For: Method Of Producing Printed Matter	:	

This is a decision on applicant's "Second Request For Corrected Notice Of Acceptance Of Application" filed on 29 May 2003 (a second copy of which was filed on 17 July 2003).

BACKGROUND

This international application was filed on 29 January 2001 and claimed an earliest priority date of 28 January 2000. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. The International Bureau transmitted a copy of the published international application to the USPTO on 02 August 2001. Accordingly, the 30 month period to pay the basic national fee in the U.S. expired on 28 July 2002.

On 16 September 2002, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an executed oath or declaration and a surcharge under 37 CFR 1.492(e).

On 10 October 2002, applicants filed a response, including an executed declaration and the surcharge under 37 CFR 1.492(e).

On 10 January 2003, a Notice of Acceptance (Form PCT/DO/EO/903)indicating that the date of this application under 35 U.S.C. 371(c)(1), (2) and (4) was mailed to applicants. The Notice did not explicitly reflect receipt of an English translation of the international application and copies of the references as cited in the International Search Report.

On 24 January 2003, applicants filed a "Request For Corrected Notice Of Acceptance Of Application" requesting that an "Assignee Statement" be listed on the Notice of Acceptance.

On 01 May 2003, a new Notice of Acceptance reflecting receipt of the "Assignee Statement" was mailed to counsel.

DISCUSSION

Counsel requests a corrected Notice of Acceptance removing reference to a "Small Entity Statement" and adding reference to an English translation of the international application and to a copies of references cited in the International Search Report. Review of the record reveals that no small entity statement is present in the application file, that an English translation was filed on 26 July 2002, and that copies of the references cited in the ISR were filed on 26 July 2002. As such, it would be appropriate to grant counsel's request.

The Notice of Acceptance mailed on 01 May 2003 is hereby **VACATED**.

DECISION

Applicants' request is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch for further processing, including the preparation and mailing of a new Notice of Acceptance (Form PCT/DO/EO/903) removing reference to a "small entity statement," and adding reference to the English translation of the international application filed on 26 July 2002 and the copy of references cited in ISR filed on 26 July 2002. The date of this application under 35 U.S.C. 371(c)(1), (2) and (4) remains **10 October 2002**.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459

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Director's Office
Group 3700

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 6300
SEATTLE, WA 98104-7092

Paper No. 10

In re Application of	:	**DECISION ON**
WOBBEN, ALOYS	:	**PETITION TO**
Application No.: 10/182,281	:	**MAKE SPECIAL**
Filed: October 07, 2002	:	

This is a decision on the petition filed July 7, 2003 to make special under 37 CFR 1.102(c).

Since the requirements of 37 CFR 1.102(c) and MPEP 708.02, VI have been met, the petition is granted.

The application is being forwarded to the examiner for an action on the merits.

Linda J. Sholl
Special Program Examiner
Technology Center 3700
Phone: (703) 308-1288

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

7+

Paper No.: 20070427

DATE : January 5, 2007

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/182299 Patent No.: 7,099,517 B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Elisha Evans

Certificates of Correction Branch

703-308-9390 ext. 110

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: The Recommended Corrections does not introduce new matter, nor does it affect the scope of the invention

SPE

2624
Art Unit

EILEEN LILLIS
SUPERVISORY PATENT EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

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MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

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DEC 14 2007
OFFICE OF PETITIONS

In re Application of	:	
BURROUGHS-TENCZA	:	
Application No. 10/182,303	:	DECISION ON PETITION
Filed: November 22, 2002	:	
Attorney Docket No.: 00-126-US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 15, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned July 20, 2007 for failure to timely submit a proper reply to the non-final Office action mailed April 19, 2007. The non-final Office action set a three month shortened statutory period of time for reply. No petition for extension of time was timely received. Notice of Abandonment was mailed October 31, 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 reply to the non-final Office action, (2) the required petition fee, and (3) a statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

This application is being referred to Technology Center 1600 for appropriate action by the Examiner in the normal course of business on the reply received

Alesia M. Brown
Petitions Attorney
Office of Petitions

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CHICAGO IL 60606

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JUL 0 9 2008

OFFICE OF PETITIONS

In re Application of	:	
Sarah Burroughs-Tencza	:	LETTER REGARDING PTA
Application No. 10/182,303	:	
Filed: November 22, 2002	:	
Atty. Dkt. No.: 00-126-US	:	

This letter is in response to the "APPLICANTS COMMENT ON DETERMINATION OF PATENT TERM ADJUSTMENT MAILED FEBRUARY 8, 2008", filed February 28, 2008. Applicant requests that the initial 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 determination of PTA at the time of the mailing of the Notice of Allowance is seven hundred eighteen (718) days.

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 **seven hundred eighteen (718) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On February 8, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. §154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is eight hundred sixty-six (866) days.

The Office initially determined a patent term adjustment of eight hundred sixty-six (866) days based on an adjustment for

PTO delay of eight-hundred sixty-six (866) days, pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. §1.703(a)(1), reduced by no (0) days of applicant delay pursuant to 37 C.F.R. §1.704(b).

Applicant asserts, based on its duty of good faith and candor, that the patent term adjustment to date should be reduced to 718 days because of the application was unintentionally abandoned and subsequently revived.

A review of the record reveals that Applicant should have been assessed a delay of one hundred forty-eight (148) days. A non-final Office action was mailed on April 19, 2007. Applicant failed to timely file a proper reply. Accordingly, the application became abandoned on July 20, 2007. A petition to revive the application was filed on November 15, 2007, and was granted in a decision mailed on December 14, 2007.

37 C.F.R. § 1.704(c)(3) states:

(c) Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

(3) Abandonment of the application or late payment of the issue fee, in which case the period of adjustment set forth in §1.703 shall be reduced by the number of days, if any, beginning on the date of abandonment or the date after the date the issue fee was due and ending on the earlier of:

(i) The date of mailing of the decision reviving the application or accepting late payment of the issue fee; or

(ii) The date that is four months after the date the grantable petition to revive the application or accept late payment of the issue fee was filed;

Therefore, Applicant should have been assessed delay for the period from July 20, 2007 (the date the application became abandoned) to December 14, 2007 (the date the decision reviving the application was mailed), or 148 days.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is seven hundred eighteen

(718) days (866 days of PTO delay, reduced by 148 days of Applicant delay).

As the instant letter was submitted to advise the Office of an error in Applicant's favor, the $200.00 application fee under 37 C.F.R. §1.705(b) was not required, and has not been charged. The Office thanks Applicant for its good faith and candor in bringing this matter to the attention of the Office.

The application file is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries specific to this letter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of adjusted PAIR calculation

PALM INTRANET

Day : Tuesday
Date: 7/8/2008
Time: 18:20:10

PTA Calculations for Application: 10/182303			
Application Filing Date:	11/22/2002	PTO Delay (PTO):	866
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	718
PTO Delay Adjustment:	-148		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
47	07/03/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		148	
38	02/08/2008	MAIL NOTICE OF ALLOWANCE			
37	02/08/2008	MAIL EXAMINER'S AMENDMENT			
36	02/06/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
35	02/06/2008	ISSUE REVISION COMPLETED			
34	02/06/2007	DOCUMENT VERIFICATION			
33	02/06/2008	EXAMINER'S AMENDMENT COMMUNICATION			
32	02/04/2008	NOTICE OF ALLOWABILITY			
31	12/14/2007	MAIL-PETITION TO REVIVE APPLICATION - GRANTED			
30	12/14/2007	PETITION TO REVIVE APPLICATION - GRANTED			
29	11/15/2007	PETITION ENTERED			
28	10/31/2007	MAIL ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
27	10/29/2007	ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
26	04/19/2007	MAIL NON-FINAL REJECTION			
25	04/16/2007	NON-FINAL REJECTION			
24	05/15/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
23	02/05/2007	DATE FORWARDED TO EXAMINER			
22	01/03/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
21	01/03/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
20	11/02/2006	MAIL RESTRICTION REQUIREMENT	167		17
19	10/30/2006	REQUIREMENT FOR RESTRICTION / ELECTION			

18	01/30/2006	DATE FORWARDED TO EXAMINER			
17	01/19/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
16	12/21/2005	MAIL RESTRICTION REQUIREMENT	699		-1
15	12/12/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
14	12/09/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
13.7	05/15/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	05/15/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	05/21/2003	CASE DOCKETED TO EXAMINER IN GAU			
11	05/14/2003	TRANSFER INQUIRY TO GAU			
10	04/22/2003	APPLICATION DISPATCHED FROM OIPE			
9	04/21/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
8	04/09/2003	NOTICE OF DO/EO ACCEPTANCE MAILED			
7	11/22/2002	ADDITIONAL APPLICATION FILING FEES			
6	11/22/2002	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
5	11/22/2002	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
4	11/22/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
3	04/04/2003	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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6759755

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4-25-05

TO SPE OF : ART UNIT 2834

SUBJECT : Request for Certificate of Correction on Patent No.: 6,759,755

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ Approved — All changes apply.
- ☐ Approved in Part — Specify below which changes do not apply.
- ☐ Denied — State the reasons for denial below.

Comments:

DARREN SCHUBERG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800
SPE

2834
Art Unit

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Daniel D Ryan
Ryan Kromholz & Manion
PO Box 26618
Milwaukee, WI 53226-0618

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APR 22 2005

OFFICE OF PETITIONS

In re Application of :
Aboul-Hosn et al. :
Application No. 10/182,314 : ON PETITION
Filed: November 15, 2002 :
Attorney Docket No.:9261.17339PCT US :

This is a decision on the Petition for an Unintentionally Delayed Benefit Claim Persuant to 37 CFR § 1.78(a)(3), filed November 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 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 above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Petitions Attorney Derek L. Woods at (571) 272-3232. 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 3762 for appropriate action on the amendment filed November 12, 2004, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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LAW OFFICE OF ASHKAN NAJAFI, PA
6817 SOUTHPOINT PARKWAY, SUITE 2301
JACKSONVILLE, FL 32216

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JAN 0 5 2007

OFFICE OF PETITIONS

In re Application of	:	
OSEN, et al.	:	
Application No. 10/182,315	:	DECISION ON PETITION
Filed: January 23, 2003	:	TO WITHDRAW
Attorney Docket No. 22750/571	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed November 1, 2006.

The request is **NOT APPROVED**.

A review of the file record indicates that Ashkan Najafi of the LAW OFFICE OF ASHKAN NAJAFI PA does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the below-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to the underisgned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **KENYON & KENYON LLP**
ONE BROADWAY
NEW YORK NY 10004

#8

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02 JUN 2003

James W. Peterson
BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. Box 1404
Alexandria, VA 22313-1404

In re Application of	:	
NADINE GENEVIEVE MARECHAL, ET AL.	:	
Appl. No.: 10/182,323	:	DECISION UNDER
PCT No.: PCT/AU01/00004	:	37 CFR 1.181
Int. Filing Date: 03 January 2001	:	
Priority Date: 26 January 2000	:	
Agent's File Reference: 025265-244	:	
For: ANTI-STATIC, ANTI-REFLECTION COATING		

This Office is in receipt of applicants' 25 March 2003 communication, which is being treated as a petition under 37 CFR 1.181 requesting that the copy of the Declaration filed with the present petition be accepted in lieu of the original filed on 07 November 2002. No petition fee is required. The petition is **GRANTED**.

BACKGROUND

On 26 July 2002, applicants filed U.S. application 10/182,323 as a national stage entry of international application PCT/AU01/00004, which claimed priority to a U.S. application filed 26 January 2000. The declaration was filed unsigned.

On 25 September 2002, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) indicating that the declaration was not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68.

On 25 March 2003, applicants filed the present petition forwarding, inter alia, a copy of the declaration executed in accordance with 37 CFR 1.497 accompanied by a copy of the return receipt postcard indicating a receipt date of 07 November 2002.

DISCUSSION

MPEP at section 503 provides that:

"A postcard receipt which itemizes and properly identifies the items which are being filed

serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

A review of the papers filed with the present petition reveals that a signed declaration was received by the Office on 07 November 2002. The proof is in the copy of the postcard receipt which itemizes, inter alia, an executed declaration and transmittal letter. Therefore, in view of the postcard receipt and counsel's affirmation that the papers filed on 25 March 2003 are true copies of the originals filed on 07 November 2002, the copies of the declaration and transmittal letter may properly be **ACCEPTED** as having been filed on **07 November 2002.**

CONCLUSION

Accordingly, the copies of the declaration and transmittal letter filed with the present petition are accepted as having been filed on 07 November 2002.

This application is being returned to the DO/EO/US for the issuance of a "NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495" (Form PCT/DO/EO/903), indicating a date under 35 U.S.C. 371(c) of 07 November 2002.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

Jeremy Fleming
Paralegal Specialist
PCT Legal Office

JSF/LS:jf

(703)308-6154

2 6 OCT 2003

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Martin Fessenmaier
RUTAN & TUCKER
611 Anton Blvd., 14th Floor
Costa Mesa, CA 92626

In re Application of :
KOCH, Bernd-Martin :
U.S. Application No.: 10/182,325 :
PCT No.: PCT/DE01/00281 :
Int. Filing Date: 25 January 2001 :
Priority Date: 28 January 2000 :
Attorney Docket No.: 100853.0001US1 :
For: CHRISTMAS TREE STAND :
COMPRISING SECURING WEDGES :

DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)

Applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 C.F.R. 1.137(b)" filed on 01 October 2004 is hereby **GRANTED** as follows:

Applicant submitted an English translation of all the claims 1 - 18 with the instant petition. The appropriate petition fee of $665.00 for a small entity has been paid. Applicant states that "[t]he entire delay in filing the required reply from the due date until the filing of this petition was unintentional (37 C.F.R. § 1.137(b)" as required by 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 25 January 2001, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 01 October 2004.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

29 JUL 2004

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#13

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Martin Fessenmaier
RUTAN & TUCKER
611 ANTON BLVD., 14TH FLOOR
COSTA MESA CA 92626

In re Application of	:	
Bernd-Martin Koch	:	
Application No.: 10/182,325	:	
PCT Application No.: PCT/DE01/00281	:	DECISION ON
International Filing Date: 25 January 2001	:	
Priority Date: 28 January 2000	:	PETITION UNDER
Attorney Docket No.: 100853.0001US1	:	
For: CHRISTMAS TREE STAND COMPRISING SECURING WEDGES	:	37 CFR 1.181 (a)

This is in response to applicant's petition filed on 10 May 2004, to withdraw the holding of abandonment under 37 CFR 1.181 (a) in the above identified application.

BACKGROUND

On 25 January 2001, applicant filed international application number PCT/DE01/00281 which claimed priority to an earlier filed German application 10003766.6 filed on 28 January 2000. A copy of the international application was communicated from the International Bureau to the United States Patent and Trademark Office on 02 August 2001. A demand for international preliminary examination, in which the United States was elected, was filed on 22 August 2001, prior to the end of the 19-month period from 28 January 2000. The period for paying the basic national fee is thus 30 months and ended at midnight 28 July 2002.

On 25 July 2002, a transmittal letter for entry into the national stage in the United States was filed along with, inter alia, the $445 (small entity) basic national fee required by 35 USC 371 (c)(1) and 37 CFR 1.492 (a)(5), a copy of the international application as filed, a translation of the international application and priority documents.

On 08 October 2002, the United States Patent and Trademark Office issued a Notification of Missing Requirements Under 35 USC 371 in the United States Designated/Elected Office (DO/EO/US) for failing to furnish an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date and a translation of the application into English.

On 24 October 2002, applicant submitted a declaration and a surcharge of $130 for furnishing the oath or declaration later than 30 months from the earliest claimed priority date.

On 17 March 2003, the United States Patent and Trademark Office issued a Notification of Defective Response for failing to furnish an English translation of the claims.

On 10 April 2003, applicant submitted an English translation of the claims.

On 25 April 2003, the United States Patent and Trademark Office issued a Notification of Defective Response for failing to furnish a translation of the application into English.

On 22 May 2003, applicant submitted an English translation of the application.

On 03 October 2003, the United States Patent and Trademark Office issued a Notification of Abandonment for failure to respond within the time period se by the notification of Missing Requirements mailed 08 October 2002.

DISCUSSION

A review of the application file reveals that applicant has failed to provide sufficient evidence to establish that a proper response to the Notification of Defective Response mailed 25 April 2003. Applicant has failed to provide the translation of the original claims 1-8 filed on 25 July 2002 prior to the preliminary amendment also filed on 25 July 2002 canceling claims 1-8. Counsel's deposit account was charged an additional $65 for failure to furnish the English translation later than 30 months from the earliest claimed priority date. The $130 processing fee for failure to provide an English translation later than 30 months from the earliest claimed priority date is not subject small entity status.

CONCLUSION

The petition to withdraw the holding of abandonment under 37 CFR 1.181(a) is DISMISSED without prejudice.

If reconsideration on the merits of this decision is desired, a proper response must be filed within TWO (2) months from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181 (a)." No petition fee is due. Extension of time are available under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, PO Box 1450, Alexandria, VA 222313-1450, and USA and address the contents of the letter to the attention of the Office of PCT Legal Administration

Michael Lebentritt
Detailee
Office of PCT Legal Administration
Telephone (703) 308-6162
Facsimile (703) 308-6459

Richard Cole
PCT Legal Examiner
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Telephone: (703) 308-6639
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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/182,327	11/27/2002	Vincent P. Mauro	SCRIP1360-1	8382

28213 7590 11/14/2008
DLA PIPER LLP (US)
4365 EXECUTIVE DRIVE
SUITE 1100
SAN DIEGO, CA 92121-2133

EXAMINER
GUZO, DAVID

ART UNIT	PAPER NUMBER
1636	

MAIL DATE	DELIVERY MODE
11/14/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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DLA PIPER LLP (US)
4365 EXECUTIVE DRIVE
SUITE 1100
SAN DIEGO CA 92121-2133

NOV 1 4 2008

In re Application of:
Mauro et al.
Serial No.: 10/182,327
Filed: November 27, 2002
Attorney Docket No: **SCRIP1360-1**

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.181(a)(1) of October 27, 2008 requesting a refund for a Notice of Appeal fee ($510) paid on August 28, 2008 since no written communication as to the status of the case had been received.

It is pointed out to applicant that the only proper response to a Final rejection is a Notice of Appeal or a Request for Continued examination (RCE). The filing of a response to a Final rejection or the submission of a Terminal Disclaimer does not stop the clock for applicants and it is thus incumbent upon applicants to maintain pendency, thus necessitating the filing of the Notice of Appeal. Any delay on the part of the examiner or the mailing of a Notice of Allowance is regretted but does not change applicants' requirement to maintain pendency of this application.

DECISION

The petition is **DENIED**.

Should there be any questions about this decision please contact Marianne C. Seidel, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

George C. Elliott

George Elliott
Director, Technology Center 1600

#7

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21 AUG 2003

Michael C. Stuart
Cohen, Pontani, Leiberman & Pavane
551 Fifth Avenue
Suite 1210
New York, New York 10176

In re Application of	:
BERGENWALL, Martin et al.	:
US Application No.: 10/182,339	: DECISION ON
PCT Application No.: PCT/IB01/00258	:
Int. Filing Date: 26 January 2001	: REQUEST UNDER
Priority Date: 28 January 2000	:
Attorney's File Reference: 4925-274PUS	: 37 CFR 1.497(d)
For: STATE-DEPENDENT INFORMATION SERVING	:

This is a response to applicant's "PETITION UNDER 37 CFR 1.497(d)" filed 17 January 2003, which is being treated as a request under 37 CFR 1.497(d) to add Kaveli Ratschunas (Ratschunas) and Juhani Murto (Murto) as co-inventors. The $130 fee under 37 CFR 1.497(d)(2) and 1.17(i) has been paid.

BACKGROUND

On 26 January 2001, applicant filed international application number PCT/EP01/00258 claiming a priority date of 28 January 2000. The application named Martin Bergenwall (Bergenwall) as the sole inventor.

On 24 August 2001, applicants filed a Demand for international preliminary examination. Accordingly, the 30-month deadline for entry into the US national stage expired at midnight on 29 July 2002 since 28 July 2002 was a Sunday.

On 26 July 2002, the applicant filed a transmittal letter for entry into the US national stage under 35 USC 371 which was accompanied by, inter alia, the basic national fee and an unexecuted declaration.

On 17 September 2002, the US designated/elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, inter alia, that the declaration did not comply with 37 CFR 1.497 since it was unexecuted and that a compliant declaration as well as a $130 late fee for filing the oath/declaration later than thirty months from the priority date were required. The notification set a two-month time period for response but indicated that extensions of time were available under 37 CFR 1.136(a).

On 17 January 2003, applicants filed the present "PETITION UNDER 37 CFR 1.497(d)" which is accompanied by, inter alia:

- an executed declaration of inventorship including the names and signatures of Bergenwall, Ratschunas, and Murto;
- a "DECLARATION OF JUHANI MURTO" indicating that the omission of his name as a co-inventor in the above-identified international application was an error that occurred without deceptive intent on his part;
- a copy of an unsigned letter dated 05 March 2001 from Philip Roy Slingsby (Slingsby) to the International Bureau of WIPO (IB) requesting the addition of Ratschunas as an inventor in the above-identified international application;
- a $130 fee for filing a declaration later than 30 months from the priority date;
- a request and payment for a one-month extension of time including an authorization to charge applicant's deposit account for any additional fees or charges required at this time.

DISCUSSION

37 CFR 1.497(d) states in part:

> If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, ... applicant must submit:
>
> (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
>
> (2) The processing fee set forth in § 1.17(i); and
>
> (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter)
>
> * * * * * * * * *

The present petition filed 17 January 2003 states that co-inventor Ratschunas was added as a co-inventor during the international phase. However, there is no evidence that the IB ever recorded the addition of Ratschunas as co-inventor in accordance with PCT Rule 92*bis*. Further, the copy of the letter dated 05 March 2001 from Slingsby to the IB, requesting the addition of Ratschunas as co-inventor, is unsigned. Accordingly, the

applicants are required provide a statement from Ratschunas in accordance with 37 CFR 1.497(d)(1).

The "DECLARATION OF JUHANI MURTO", filed 17 January 2003, fulfills the requirement of a statement from Murto under 37 CFR 1.497(d)(1).

The applicants request and have paid $110 for a one-month extension of time under 37 CFR 1.136(a). However, the applicants need a two-month extension of time in order to avoid abandonment of their application. The fee for a two-month extension is $410. Accordingly, the additional $300 needed to pay for a two-month extension has been charged to applicant's deposit account.

CONCLUSION

For the above reasons, applicants request for the addition of Murto as a co-inventor is **GRANTED**. Applicants request for the addition of Ratschunas as co-inventor is **DISMISSED**, without prejudice.

If reconsideration on the merits of this request is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Request Under 37 CFR 1.497(d)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper response to this decision will result in ABANDONMENT of the application.

The requisite additional $300 needed to cover a two-month extension of time has been charged to applicant's deposit account number 03-2412.

Applicant is advised that, as of May 1, 2003, the Office changed its correspondence address. Any further correspondence with respect to this matter deposited with the United States Postal Service on or after May 1, 2003 should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Diana L. Oleksa
Special Programs Examiner
PCT Special Programs Office
Telephone: 703-308-0890

Boris Milef
PCT Legal Examiner
PCT Legal Office

24 FEB 2004

#9

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Michael C. Stuart
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551 Fifth Avenue
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New York, NY 10176

In re Application of	:
BERGENWALL, Martin et al.	:
US Application No.: 10/182,339	: DECISION ON
PCT Application No.: PCT/IB01/00258	:
Int. Filing Date: 26 January 2001	: REQUEST UNDER
Priority Date: 28 January 2000	:
Attorney's File Reference: 4925-274PUS	: 37 CFR 1.497(d)
For: STATE-DEPENDENT INFORMATION SERVING	:

This decision is in response to applicants' "RENEWED REQUEST UNDER 37 CFR 1.497(d)", filed 24 October 2003, requesting the addition of Kalevi Ratschunas (Ratschunas) as a co-inventor.

BACKGROUND

On 21 August 2003, this Office mailed a decision granting applicants' request to add Juhani Murto as a co-inventor but dismissing, without prejudice, applicants' request to add Ratschunas as a co-inventor. The decision stated that the applicants were required to provide a statement from Ratchunas, in accordance with 37 CFR 1.497(d), that any error in inventorship in the international application occurred without deceptive intention on his part.

On 24 October 2003, the applicants filed the present "RENEWED REQUEST UNDER 37 CFR 1.497(d)" which is accompanied by, inter alia, a "DECLARATION OF KALEVI RATSCHUNAS" stating that the omission of Ratschunas' name as a co-inventor occurred without deceptive intention on his part.

DISCUSSION

The declaration of Ratschunas fulfills the requirement of a statement from Ratschunas under 37 CFR 1.497(d). Accordingly, it is appropriate to add Ratschunas as a co-inventor.

CONCLUSION

For the above reasons, applicants' request under 37 CFR 1.497(d) for the addition of Ratschunas as a co-inventor is **GRANTED**.

This application is being forwarded to the US Designated/Elected Office for continued processing in accordance with this decision, that is, for preparation and mailing of a Notification of Acceptance (Form PCT/DO/EO/903) indicating a date under 35 USC 371 of 17 January 2003.

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Special Programs Examiner
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NEW YORK NY 10036-8299

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OFFICE OF PETITIONS

In re Application of	:	
Steven L. Jacques	:	
Application No. 10/182,346	:	ON PETITION
Filed: July 26, 2002	:	
Attorney Docket No. 19799-174	:	

This is a decision on the petition, filed October 7, 2005, under 37 CFR 1.181(a) to Withdraw Holding of Abandonment.

The application was held abandoned for failure to timely reply to the Final Office action mailed November 10, 2004.

The petition states that a reply was timely submitted on May 12, 2005 (Certificate of Mail Date May 9, 2005). To support this assertion, the petitioner has submitted a copy of the postcard receipt stamped by the USPTO on May 12, 2005, evidencing receipt of an extension of time and a Notice of Appeal. Additionally, Office records do show receipt of the extension of time and the Notice of Appeal filed May 12, 2005.

In view of the above, the petition to withdraw the holding of abandonment for failure to timely reply to the Final Office action mailed November 10, 2004 is granted. However, the application will remain abandoned for failure to reply to the Notice of Appeal filed May 12, 2005. Petitioner should be aware that even though a notice of abandonment was mailed in error, petitioner was not relieved of the filing of an Appeal Brief within 2(TWO) months of the filing of the Notice of Appeal on May 12, 2005, since the response time continues to run. Therefore, the application remains **ABANDONED.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of Steven L. Jacques Application No. 10/182,346 Filed: July 26, 2002 Attorney Docket No. 19799-174	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed May 11, 2006, to revive the above-identified application.

The petition is **GRANTED**.

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 of May 11, 2006, is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the extension of time submitted with the petition on May 11, 2006 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee ($1590) by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 3763.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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AUG 15 2008

In re Application of	:	
Koichi Otsuki	:	
Application No. 10/182,351	:	DECISION ON PETITION
Filed: July 25, 2002	:	TO WITHDRAW
Attorney Docket No. MES1P068/PF04G631/2-PUS	:	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 7, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Beyer Weaver, LLP has been revoked by the assignee of the patent application on June 15, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272- 1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: BEYER LAW GROUP, LLP
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