29 JAN 2007

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Richard J. Minnich
FAY SHARPE FAGAN MINNICH & MCKEE
1100 Superior Avenue, 7th Floor
Cleveland, Ohio 44114-2518

In re Application of:
LIOTTA, Lance, A., et al.
U.S. Application No.: 10/182,354
PCT No.: PCT/US01/03535
International Filing Date: 02 February 2001
Priority Date: 03 February 2000
Attorney's Docket No.: LIOZ 200077 US
For: METHOD AND APPARATUS FOR SIGNAL TRANSDUCTION PATHWAY PROFILING

DECISION ON PETITION TO CHANGE INVENTOR'S NAME AND FOR REVIVAL OF APPLICATION

This decision is issued in response to the "Petition Under 37 CFR 1.182 To Accept Declaration With A Changed Name" and the "Petition Under 37 CFR 1.137(b) To Revive An Unintentionally Abandoned Application" filed by applicants on 15 December 2006. Applicant has paid the required petition fees.

BACKGROUND

The procedural background for the present application was set forth in the Decision mailed herein on 30 May 2005. In that decision, the application was held abandoned for failure to file a proper response to the "Notification Of Defective Response" (Form PCT/DO/EO/916) mailed herein on 14 May 2003. Specifically, the decision found that the declaration filed by applicants in response to the Notification Of Defective Response was defective because: (1) it appeared to be an impermissible compilation of multiple documents; and (2) the name of one of the inventors had been changed in the declaration (so the inventors listed on the declaration did not correspond to the inventors of record herein).

On 13 June 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Abandonment (Form PCT/DO/EO/909) confirming that the application was abandoned for failure to file a proper response to the Notification Of Defective Response mailed 14 May 2003.

On 15 December 2006, applicant filed the "Petition Under 37 CFR 1.182 To Accept Declaration With A Changed Name" and the "Petition Under 37 CFR 1.137(b) To Revive An Unintentionally Abandoned Application" considered herein.

DISCUSSSION

1. Petition To Correct Inventor's Name

Pursuant to MPEP section 605.04(b), a petition under 37 CFR 1.182 is required to correct an error in an inventor's name "[e]xcept for correction of a typographical or transliteration error in the spelling of an inventor's name." Applicants' present submission confirms that the correct name for the third inventor is Katherine L. PAWELETZ (as set forth in the declaration accompanying the present petition), and that the incorrect spelling of this inventor's name in the international application was the result of a typographical error. Based on the present submission, the correct name for this inventor is accepted as Katherine L. PAWELETZ, without the need for a petition under 37 CFR 1.182.

The petition under 37 CFR 1.182 is dismissed as moot; the $400 petition fee paid by applicants will be refunded to Deposit Account No. 06-0308.

It is noted that, taking into account the correction of the inventor's name, the complete and fully executed declaration filed with the present submission complies with the requirements of 37 CFR 1.497.

2. Petition For Revival Under 37 CFR 1.137(b)

37 CFR 1.137(b) permits the filing of a petition to revive an abandoned application where the abandonment resulted from an unintentional delay. A grantable petition under this section must include: (1) the required reply, unless previously filed; (2) the petition fee required by law; (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional;" and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

Here, as noted above, the petition is accompanied by "required reply" in the form of a complete, fully executed declaration in compliance with 37 CFR 1.497. Item (1) is therefore satisfied.

Applicant has also submitted payment of the petition fee, satisfying item (2).

With respect to item (3), the Petition for Revival includes an express 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." This application has been abandoned for an extended period of time. The USPTO is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. At 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when

providing the statement required by 37 CFR 1.137(b) to the USPTO). Based on the above, item (3) above is considered satisfied.

Under the terms of 37 CFR 1.137(c), the terminal disclaimer listed as item (4) above is not required for this application.

Based on the above, applicant has satisfied all the requirements for a grantable petition under 37 CFR 1.137(b).

CONCLUSION

Based on applicants' present submission, the correct name of the third inventor is corrected to Katherine L. PAWELETZ, as set forth in the declaration included with the present submission.

Applicants' petition under 37 CFR 1.182 to change the name of record for the third inventor is **DISMISSED** as moot.

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

The $400 petition fee submitted with the petition under 37 CFR 1.182 will be refunded to Deposit Account No. 06-0308.

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. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 15 December 2006.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

Refund Ref:
01/29/2007 0030037475

Credit Card Refund Total: $400.00

AM Exp...: XXXXXXXXXXX1771

Adjustment date: 01/29/2007 SBASHEIR
12/15/2006 INTEFSW 00001522 10182354
01 FC:1462 -400.00 OP

30 MAY 2005

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#8

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Cleveland, Ohio 44114-2518

In re Application of:	:	
LIOTTA, Lance, A., et al.	:	DECISION REGARDING
U.S. Application No.: 10/182,354	:	RESPONSE TO NOTIFICATION OF
PCT No.: PCT/US01/03535	:	DEFECTIVE RESPONSE
International Filing Date: 02 February 2001	:	
Priority Date: 03 February 2000	:	
Attorney's Docket No.: LIOZ 200077US	:	
For: METHOD AND APPARATUS FOR SIGNAL TRANSDUCTION PATHWAY PROFILING	:	

This decision is issued in response to the "Response To Notification Of Defective Response" filed 27 May 2003 and the "Status Inquiry" filed 24 January 2005. No petition fee is required.

BACKGROUND

On 02 February 2001, applicants filed international application PCT/US01/03535 which claimed a priority date of 03 February 2000 and which designated the United States. A Demand electing the United States was filed prior to the expiration of nineteen months from the priority date. Accordingly, the deadline for submitting the basic national fee was thirty months from the priority date, i.e., 03 August 2002.

On 25 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.

On 09 September 2002, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) indicating that an executed oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the declaration later than thirty months after the priority date were required.

On 10 March 2003, applicants filed a response to the Notification Of Missing Requirements (with extension fee). The submission included payment of the required surcharge and signature pages signed by the inventors. However, the submission did not include a complete declaration acceptable under 37 CFR 1.497.

On 14 May 2003, the DO/EO/US mailed a "Notification Of Defective Response" (Form PCT/DO/EO/916) indicating that the filed declaration was not acceptable and that an acceptable

declaration was required within one month from the mail date of the Notification. The Notification indicated that this one month deadline was not extendable and that the failure to submit a proper response would result in abandonment of the application.

On 27 May 2003, applicants filed the "Response To Notification Of Defective Response" considered herein.

On 24 January 2005, applicants filed a Status Inquiry seeking to determine the status of the present application.

DISCUSSION

The declaration document filed by applicants on 27 May 2003 is unacceptable in that it was submitted in an improper form. The five pages of declaration appear to be a compilation of more than one copy of the declaration (the document includes two copies of the first signature page: one copy is executed by the first and second inventors, the second copy is executed by the third inventor). Such compilation is impermissible (see M.P.E.P. § 201.03: "Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration").

In addition, the duplicate signature pages submitted include a typographical error in the name of the third inventor. Specifically, this inventor is listed on the declaration as Katherine L. LAWLELETZ; the inventor's name of record is Katherine L. PAWLELETZ. Moreover, on the second copy of this signature page (the version executed by the third inventor), the name has been corrected in ink to read Katherine L. PAWELETZ, a third spelling of this name which again fails to correspond with the name of record. The declaration document is therefore defective for failure to properly identify all the inventors of record herein.

Based on the above, applicants' 27 May 2003 submission was not an acceptable response to the Notification Of Defective Response. Accordingly, this application became abandoned as of midnight on 16 June 2003, the date on which a proper response to the Notification Of Defective Response was due (14 June 2003 was a Saturday).

CONCLUSION

The present application is **ABANDONED** for failure to file an acceptable response to the Notification Of Defective Response mailed 14 May 2003.

As discussed above, the declaration filed by applicants on 27 May 2003 is not acceptable under 37 CFR 1.497 in that the declaration appears to be an improper compilation of multiple declarations and it fails to properly identify the inventors of record herein.

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 Abandonment" (Form PCT/DO/EO/909).

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29 JAN 2007

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Richard J. Minnich
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1100 Superior Avenue, 7th Floor
Cleveland, Ohio 44114-2518

In re Application of:	
LIOTTA, Lance, A., et al.	DECISION ON PETITION TO
U.S. Application No.: 10/182,354	CHANGE INVENTOR'S NAME
PCT No.: PCT/US01/03535	AND FOR REVIVAL OF
International Filing Date: 02 February 2001	APPLICATION
Priority Date: 03 February 2000	
Attorney's Docket No.: LIOZ 200077 US	
For: METHOD AND APPARATUS FOR SIGNAL TRANSDUCTION PATHWAY PROFILING	

This decision is issued in response to the "Petition Under 37 CFR 1.182 To Accept Declaration With A Changed Name" and the "Petition Under 37 CFR 1.137(b) To Revive An Unintentionally Abandoned Application" filed by applicants on 15 December 2006. Applicant has paid the required petition fees.

BACKGROUND

The procedural background for the present application was set forth in the Decision mailed herein on 30 May 2005. In that decision, the application was held abandoned for failure to file a proper response to the "Notification Of Defective Response" (Form PCT/DO/EO/916) mailed herein on 14 May 2003. Specifically, the decision found that the declaration filed by applicants in response to the Notification Of Defective Response was defective because: (1) it appeared to be an impermissible compilation of multiple documents; and (2) the name of one of the inventors had been changed in the declaration (so the inventors listed on the declaration did not correspond to the inventors of record herein).

On 13 June 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Abandonment (Form PCT/DO/EO/909) confirming that the application was abandoned for failure to file a proper response to the Notification Of Defective Response mailed 14 May 2003.

On 15 December 2006, applicant filed the "Petition Under 37 CFR 1.182 To Accept Declaration With A Changed Name" and the "Petition Under 37 CFR 1.137(b) To Revive An Unintentionally Abandoned Application" considered herein.

DISCUSSSION

1. Petition To Correct Inventor's Name

Pursuant to MPEP section 605.04(b), a petition under 37 CFR 1.182 is required to correct an error in an inventor's name "[e]xcept for correction of a typographical or transliteration error in the spelling of an inventor's name." Applicants' present submission confirms that the correct name for the third inventor is Katherine L. PAWELETZ (as set forth in the declaration accompanying the present petition), and that the incorrect spelling of this inventor's name in the international application was the result of a typographical error. Based on the present submission, the correct name for this inventor is accepted as Katherine L. PAWELETZ, without the need for a petition under 37 CFR 1.182.

The petition under 37 CFR 1.182 is dismissed as moot; the $400 petition fee paid by applicants will be refunded to Deposit Account No. 06-0308.

It is noted that, taking into account the correction of the inventor's name, the complete and fully executed declaration filed with the present submission complies with the requirements of 37 CFR 1.497.

2. Petition For Revival Under 37 CFR 1.137(b)

37 CFR 1.137(b) permits the filing of a petition to revive an abandoned application where the abandonment resulted from an unintentional delay. A grantable petition under this section must include: (1) the required reply, unless previously filed; (2) the petition fee required by law; (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional;" and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

Here, as noted above, the petition is accompanied by "required reply" in the form of a complete, fully executed declaration in compliance with 37 CFR 1.497. Item (1) is therefore satisfied.

Applicant has also submitted payment of the petition fee, satisfying item (2).

With respect to item (3), the Petition for Revival includes an express 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." This application has been abandoned for an extended period of time. The USPTO is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. At 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when

providing the statement required by 37 CFR 1.137(b) to the USPTO). Based on the above, item (3) above is considered satisfied.

Under the terms of 37 CFR 1.137(c), the terminal disclaimer listed as item (4) above is not required for this application.

Based on the above, applicant has satisfied all the requirements for a grantable petition under 37 CFR 1.137(b).

CONCLUSION

Based on applicants' present submission, the correct name of the third inventor is corrected to Katherine L. PAWELETZ, as set forth in the declaration included with the present submission.

Applicants' petition under 37 CFR 1.182 to change the name of record for the third inventor is **DISMISSED** as moot.

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

The $400 petition fee submitted with the petition under 37 CFR 1.182 will be refunded to Deposit Account No. 06-0308.

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. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 15 December 2006.

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19 SEP 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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McGlew and Tuttle, P.C.
Scarborough Station
Scarborough, NY 10510-0827

In re Application of GUGGENHEIM	:	
U.S. Application No.: 10/182,358	:	DECISION ON PETITION
Int. Application No.: PCT/IB01/01317	:	
Int. Filing Date: 23 July 2001	:	UNDER 37 CFR 1.137(b)
Priority Date: 24 July 2000	:	
Attorney Docket No.: 70618	:	
For: RETURN CHANNEL FOR PAY TELEVISION DECODER	:	

This is in response to applicant's "Petition to Revive Unintentionally Abandoned Application (37 CFR 1.137(b))" filed 25 July 2002.

BACKGROUND

On 23 July 2001, applicant filed international application PCT/IB01/01317, which claimed priority of an earlier Switzerland application filed 24 July 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 31 January 2002. The twenty-month period for paying the basic national fee in the United States expired at midnight on 25 March 2002 (24 March 2002 was a Sunday).

International application PCT/IB01/01317 became abandoned as to the United States at midnight on 25 March 2002 for failure to pay the basic national fee.

On 25 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 reply 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 above, the petition under 37 CFR 1.137(b) is GRANTED.

This application has an international filing date of 23 July 2001 and a date under 35 U.S.C. 371 of 25 July 2002.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

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NEW YORK, NY 10017

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NOV 21 2007

OFFICE OF PETITIONS

In re Patent No. 6,717,750	:	
Issue Date: April 6, 2004	:	
Application No. 10/182,364	:	DECISION ON PETITION
Filed: July 27, 2002	:	
Attorney Docket No. BM-105PCT	:	

This is a decision on the petition filed July 23, 2004, on July 23, 2004,and again on April 2, 2007, which are collectively being treated as a request under 37 CFR 3.81(b) to include 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**.

A processing fee of $130 was first submitted on March 17, 2004 and again on April 2, 2004. As only one fee is required, one of the $130 fees will be refunded to petitioner's deposit account. However, no fee has been submitted for the Certificate of Correction. Accordingly, as authorized, the $100 fee for the Certificate of Correction will be charged to petitioner's deposit account.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : ~~4/27/06~~ 7/19/06

Paper No.: ~

TO SPE OF : ART UNIT 1742

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/182365 Patent No. 6946038B2

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

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

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

Virginia Tolbert
Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

Roy Van Ching
SPE

1742
Art Unit

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10/182369	7/29/2002	Schulte	44478

EXAMINER
EASHOO

ART UNIT	PAPER
1732	04272006

DATE MAILED: 5/1/2006

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

Commissioner for Patents

The Petition under C.F.R. §181 filed February 28, 2006, for the entry of November 3, 2005 amendment has been considered and is GRANTED.

The November 3, 2005 amendment will be entered pursuant to this decision.

Michael P Colaianni
SPE
Art Unit: 1732

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10/182,369	07/29/2002	SCHULTE	444 78

EXAMINER
M. EASTON

ART UNIT	PAPER
1732	[redacted]

DATE MAILED: 5/1/06

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

Commissioner for Patents

The Petition under C.F.R. §181 filed February 28, 2006, for the entry of November 3, 2005 amendment has been considered and is GRANTED.

The November 3, 2005 amendment will be entered pursuant to this decision.

Michael P Colaianni
SPE
Art Unit: 1732

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YOUNG & THOMPSON
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Suite 500
ALEXANDRIA, VA 22314

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JAN 0 5 2009

OFFICE OF PETITIONS

In re Patent No. 6,866,641	:	
Issue Date: March 15, 2005	:	
Application No. 10/182,376	:	NOTICE
Filed: November 15, 2002	:	
Patentee(s): Jeremy Marshall	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed October 28, 2008.

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

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**. Therefore, status as a small entity has been removed and all future fees paid must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

19 SEP 2002
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Birch, Stewart, Kolasch & Birch, LLP
P.O. Box 747
Falls Church, VA 22040-0747

In re Application of BORTONE	:	
U.S. Application No.: 10/182,378	:	DECISION ON PETITION
Int. Application No.: PCT/IT01/00343	:	
Int. Filing Date: 28 June 2001	:	UNDER 37 CFR 1.137(b)
Priority Date: 29 June 2000	:	
Attorney Docket No.: 4403-0101P	:	
For: NEW EXHAUST VALVE AND INTAKE SYSTEM	:	

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b)" filed 29 July 2002.

BACKGROUND

On 28 June 2001, applicant filed international application PCT/IT01/00343, which claimed priority of an earlier Italy application filed 29 June 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 03 January 2002. The twenty-month period for paying the basic national fee in the United States expired at midnight on 28 February 2002.

International application PCT/IT01/00343 became abandoned as to the United States at midnight on 28 February 2002 for failure to pay the basic national fee.

On 29 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), 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 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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Facsimile: 703-308-6459

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JAN 12 2006

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

In re Application of
Kenn Mosgaard Christensen
Application No. 10/182,435
Filed: July 29, 2002
For: APPARATUS FOR DRY-DISTRIBUTING OF FIBROUS MATERIALS

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to the petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office on November 10, 2004.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Non-Final Rejection mailed March 4, 2004, setting a three month shortened statutory period for response. The application became abandoned on June 4, 2004, and a Notice to that effect was mailed October 20, 2004.

Applicant contends that the Office Action was never received.

A review of the application file reveals that the Declaration contains an incorrect address and that the Office Action was sent to that address. However, the file includes an Application Data Sheet which lists a customer number that is associated with the proper address. Since the Application Data Sheet governs when inconsistent information is supplied at the same time (MPEP 601.05(d)(2)), the data corresponding to the customer number has now been entered into the USPTO database.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to withdraw the holding of abandonment and restore the application to pending status, before re-dating and re-mailing the Office Action, originally mailed on March 4, 2004.

for

Randolph A. Reese
Special Program Examiner
Patent Technology Center 3600
(571) 272-6619

RAR/dgd: 4/26/05

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1001 TROUT BROOK CROSSING
ROCKY HILL, CT 06067

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OFFICE OF PETITIONS

In re Application of
Philip T. Klemarczyk, et al.
Application No. 10/182,450
Filed: July 29, 2002
Attorney Docket No.: LC-404 PCT/US

ON PETITION

This is a decision on the petition, filed September 8, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 5, 2005, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 1712 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Joseph J. Laks
Thomson Licensing LLC
2 Independence Way, Patent Operations
PO Box 5312
PRINCETON NJ 08543

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NOV 2 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Eugene Murphy O'Donnell	:	
Application No. 10/182,479	:	DECISION GRANTING PETITION
Filed: July 30, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. PU000140	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 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 November 7, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2629 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Williams
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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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/182,479	07/30/2002	Eugene Murphy O'Donnell	PU000140	9116

24498 7590 11/24/2008

Joseph J. Laks
Thomson Licensing LLC
2 Independence Way, Patent Operations
PO Box 5312
PRINCETON, NJ 08543

EXAMINER	
NGUYEN, JIMMY H	
ART UNIT	PAPER NUMBER
2629	
MAIL DATE	DELIVERY MODE
11/24/2008	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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United States Patent and Trademark Office
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ExxonMobil Research & Engineering Company
P.O. Box 900
1545 Route 22 East
Annandale NJ 08801-0900

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OFFICE OF PETITIONS

In re Application of	:	
Francis Prince et al.	:	
Application No. 10/182,493	:	ON PETITION
Filed: November 15, 2002	:	
Attorney Docket No. EU146417855US	:	

This is a decision on the petition under 37 CFR 1.137(b) filed August 13, 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 December 1, 2006 which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 2, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

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

The application file is being referred to Technology Center AU 1764 for appropriate action on the concurrently filed amendment.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Robert E Krebs
Thelen Reid & Priest
P.O. Box 640640
San Jose, CA 95164-0640

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JUL 24 2006

OFFICE OF PETITIONS

In re Application of :
Ouvry, et. al. :
Application No. 10/182,494 :
Filed: February 11, 2003 :
Attorney Docket No. 034299-447 :

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b) or 37 CFR § 10.40, filed on April 20, 2006.

The request is **NOT APPROVED**.

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 address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Andrea Smith at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee:

cc: Berkeley Law & Technology Group, LLC
Attention: Jessica A. Harvey
1700 NW 167th Place, Suite 240
Beaverton, OR 97006

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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LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO, IL 60601-6731

Mail Date: 04/20/2010

Applicant	: Rong-Fu Wang	: DECISION ON REQUEST FOR
Patent Number	: 7619057	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/182,506	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/28/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1099** 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.

19 MAR 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paul J. Korniczky
Leydig, Voit & Mayer
Two Prudential Plaza
Suite 4900
180 North Stetson
Chicago, Illinois 60601

In re Application of :
KATER et al. :
U.S. Application No.: 10/182,522 : DECISION ON PETITION
PCT No.: PCT/EP01/01009 : UNDER 37 CFR 1.47(a)
Int. Filing Date: 31 January 2001 :
Priority Date: 31 January 2000 :
Attorney Docket No.: 218011 :
For: METHOD FOR OPERATING A TELECOMMUNICATIONS SYSTEM AND TELECOMMUNICATIONS ARRANGEMENT :

This is a decision on applicants' "Petition for Filing by Other than All the Inventors Pursuant to 37 CFR 1.47(a)" filed 20 November 2002 to accept the application without the signature of joint-inventor, Joachim Esser. The required petition fee of $130.00 (37 CFR 1.17(h)) has been submitted.

BACKGROUND

On 31 January 2001, applicants filed the above-captioned international application which claimed a priority date of 31 January 2000. 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 prior to the expiration of 19 months from the priority date. Accordingly, the thirty-month time period for submitting the requisite basic national fee in the United States of America expired at midnight on 31 July 2002.

On 30 July 2002, applicants filed a transmittal letter for entry into the national stage accompanied by, *inter alia:* the requisite basic national fee; a translation of the international application; and a first preliminary amendment.

On 20 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 20 November 2002, applicants filed a Petition under 37 CFR 1.47(a) and the requisite fee and a declaration and power of attorney signed by four of the five joint-inventors.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the non-signing joint inventor. Items (1),(3) and (4) have been satisfied.

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 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 Joachim Esser. The present petition states, "[o]n August 8, 2002, Dr. Bohnenberger sent a letter to Mr. Esser's . . . requesting Mr. Esser to sign the Combined Declaration. When Mr. Esser failed to respond to the August 8 request, Dr. Bohnenberger sent a reminder request." The mailing of the Combined Declaration is not considered a complete copy of the

application papers (specification, including claims, drawings, and oath and declaration). Furthermore, it does not appear that petitioner has first hand knowledge of all the facts.

In order to meet the requirements of 37 CFR 1.47(a) and Section 409.03(d) of the MPEP, 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 Joachim Esser and when such papers were sent and that Joachim Esser has subsequently refused to execute the application. 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.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Joachim Esser 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 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

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel.: 703-308-6314
Fax: 703-308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

30 MAY 2003

#6

Paul J. Korniczky
Leydig, Voit & Mayer
Two Prudential Plaza
Suite 4900
180 North Stetson
Chicago, Illinois 60601

In re Application of :
KATER et al. :
U.S. Application No.: 10/182,522 : DECISION ON PETITION
PCT No.: PCT/EP01/01009 : UNDER 37 CFR 1.47(a)
Int. Filing Date: 31 January 2001 :
Priority Date: 31 January 2000 :
Attorney Docket No.: 218011 :
For: METHOD FOR OPERATING A TELECOMMUNICATIONS SYSTEM AND TELECOMMUNICATIONS ARRANGEMENT :

This decision is in response to "Renewed Petition under 37 CFR 1.47(a)" filed 20 May 2003. In a decision dated 19 March 2003, the "Petition under 37 CFR 1.47(a)" filed 20 November 2002 was dismissed because applicant did not provide adequate proof that joint inventor, Joachim Esser, 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 20 May 2003 with the present communication was executed by the previously non-signing inventor, Joachim Esser. As such, the submission is a proper reply to the Decision mailed 19 March 2003. The declarations filed 20 May 2003 is acceptable under 37 CFR 1.497.

The application has an international filing date of 31 January 2001 under 35 U.S.C. 363 and a date of **20 May 2003** under 35 U.S.C. 371(c).

Deposit Account No. 12-1216 has been charged a $130.00 surcharge fee under 37 CFR 492(e) for supplying an oath or declaration later than 30 months from the earliest claimed priority date.

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

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
PO BOX 10395
CHICAGO IL 60610

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OFFICE OF PETITIONS

In re	:	
Yabe, et al.	:	DECISION ON REQUEST
Application No. 10/182,537	:	FOR RECONSIDERATION OF
Filed: July 25, 2002	:	PATENT TERM ADJUSTMENT
Patent No. 7,072,642 B2	:	UNDER 37 C.F.R. §1.705(d)
Issued: July 4, 2006	:	

This letter is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705(d)" filed September 5, 2006[1], requesting correction of the patent term adjustment (PTA) indicated on the patent due to the patent not issuing within three years of its filing.

The request for reconsideration of the patent term adjustment indicated on the patent is **DISMISSED**.

On July 4, 2006, the above-identified application matured into U.S. Patent No. 7,072,642. The patent issued with a Patent Term Adjustment of three hundred eleven (311) days (469 days of PTO delay and 158 days of applicant delay).

[1] The request was timely in accordance with 37 C.F.R. §1.705(d). September 4, 2006 fell on a federal holiday. See Revision of Patent Term Extension and Patent Term Adjustment Provisions, Final Rule (April 22, 2004), 69 Fed. Reg 21704.

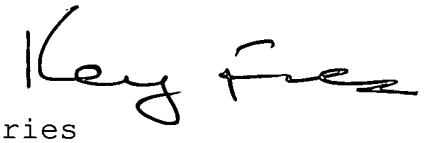
Patentees state that the determination of patent term adjustment should have been increased by 196 days due to the PTO delay incurred for the number of days between the 3 year date and the issue date (July 4, 2006), minus the number of days between the filing of the RCE (on February 6, 2006) and the issue date.

Patentees' argument is not well-taken. As the 196 additional days overlap with the 469 days of PTO delay already accorded, this delay does not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 C.F.R. § 1.703(f). See also Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004).

In view thereof, the correct determination of PTA at the time of issuance is three hundred eleven (311) days.

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

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



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

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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 Application of :
Koji Furuya et al :
Application No. 10/182,553 : DECISION GRANTING PETITION
Filed: July 30, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. Q71115 :

This is a decision on the petition, filed February 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 November 15, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1773 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

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MAIL Paper No. 9

STEVENS DAVIS MILLER & MOSHER, LLP
1615 L STREET, NW
SUITE 850
WASHINGTON DC 20036

MAR 16 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Atsushi MATSUMOTO, et al. :
Application No. 10/182,569 : DECISION ON PETITION
Filed: July 31, 2002 : TO MAKE SPECIAL
For: **RADIO TRANSMITTER, RADIO RECEIVER, AND MULTILEVEL MODULATION COMMUNICATION SYSTEM** :

This is a decision on the petition filed January 7, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Mailed: 11/21/05

In re application of :
Walter Schmidt et al. : DECISION ON
Serial No. 10/182,577 : PETITION
Filed: October 18, 2002 :
For: METHOD FOR FABRICATING MICRO-STRUCTURES WITH VARIOUS SURFACE PROPERTIES IN MULTI-LAYER BODY BY PLAMA ETCHING

This is a decision on the PETITION UNDER 37 CFR 1.144 REQUESTING REVIEW OF THE RESTRICTION REQUIREMENT in the office action mailed on July 19, 2004.

On July 19, 2004, a restriction requirement was mailed to applicants. In this requirement, the examiner held that the claims lack unity under PCT Rules 13.1 – 13.4 and required election between two groups (method and apparatus). Applicants traversed the restriction requirement in a response filed on August 19, 2004 and requested reconsideration of the requirement. In the *Ex parte Quayle* action mailed December 13, 2004, the examiner acknowledged the traversal and made the restriction requirement between Group I and Group II final.

On January 13, 2005 the instant petition under 37 CFR 1.144 was timely filed to formally request a review of the restriction requirement.

DECISION

The instant application has been filed under 35 U.S.C. 371 as a national phase application of PCT/CH01/00070 and as such is subject to the unity requirements set out in PCT Rules 13.1 – 13.4 and 37 CFR 1.475, as well as the PCT Administrative Instructions, Annex B. In the instant petition it is asserted that there is a technical relationship between Group I and Group II inventions involving one or more special technical features and that the examiner improperly considered "a polymeric surface of a micro-structure that comprises a hydrophobic portion and a hydrophilic portion" only as a common special feature.

The PCT Administrative Instructions, Annex B, Part 1 at (b) state that "the special technical features" common to all groupings of inventions shall be defined, as in PCT Rule 13.2, to mean,

> "those technical features which each of the claimed inventions, **considered as a whole, makes over the prior art.**" (Emphasis added)

In the instant case, the technical feature described by the examiner is the only feature which links together all of the claims in the two groups. Therefore, the special technical feature relied upon by the

examiner was appropriate. The additional limitations argued by the petitioner, including those found in the dependent claims, are not required by all of the claims and do not serve to link the two groups of inventions. However, this special technical feature of the method and device has been shown, at page 2 of the office action mailed December 13, 2004, to not make (be) a contribution over the prior art of Moya (US 2003/0113528). The petitioner has argued that Moya is not prior art against the instant claims. However, Moya has an effective filing date of at least September 14, 2000, which is prior to the effective filing date of the instant application. Finally, the petitioner has argued that even if Moya is considered to be prior art, the reference does not meet the feature of the multi-layer body having a micro-structure as claimed in Group I and Group II. However, Moya, with reference to Hirose et al. (US 5,627,042), discloses that a multi-layered body having a micro-structure is known in the prior art. Therefore, the examiner's finding that there is a lack of unity of invention between the groups as set forth in the restriction requirement was correct. The reason for such being that the groups constitute additional inventions not sharing a "special technical relationship" within the meaning of PCT Rule 13.2 since the identified "special technical feature" does not make a contribution over the prior art.

Accordingly, the petition is **DENIED.** The application remains in pending status awaiting a response to the office action mailed December 13, 2004.

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

ROBERT E. BUSHNELL
1522 K STREET N.W.
SUITE 300
WASHINGTON, D.C. 20005-1202

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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Mailed: 11/21/05

In re application of :
Walter Schmidt et al. : DECISION ON
Serial No. 10/182,577 : PETITION
Filed: October 18, 2002 :
For: METHOD FOR FABRICATING MICRO-STRUCTURES WITH VARIOUS SURFACE PROPERTIES IN MULTI-LAYER BODY BY PLAMA ETCHING

This is a decision on the PETITION UNDER 37 CFR 1.144 REQUESTING REVIEW OF THE RESTRICTION REQUIREMENT in the office action mailed on July 19, 2004.

On July 19, 2004, a restriction requirement was mailed to applicants. In this requirement, the examiner held that the claims lack unity under PCT Rules 13.1 – 13.4 and required election between two groups (method and apparatus). Applicants traversed the restriction requirement in a response filed on August 19, 2004 and requested reconsideration of the requirement. In the *Ex parte Quayle* action mailed December 13, 2004, the examiner acknowledged the traversal and made the restriction requirement between Group I and Group II final.

On January 13, 2005 the instant petition under 37 CFR 1.144 was timely filed to formally request a review of the restriction requirement.

DECISION

The instant application has been filed under 35 U.S.C. 371 as a national phase application of PCT/CH01/00070 and as such is subject to the unity requirements set out in PCT Rules 13.1 – 13.4 and 37 CFR 1.475, as well as the PCT Administrative Instructions, Annex B. In the instant petition it is asserted that there is a technical relationship between Group I and Group II inventions involving one or more special technical features and that the examiner improperly considered "a polymeric surface of a micro-structure that comprises a hydrophobic portion and a hydrophilic portion" only as a common special feature.

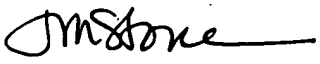
The PCT Administrative Instructions, Annex B, Part 1 at (b) state that "the special technical features" common to all groupings of inventions shall be defined, as in PCT Rule 13.2, to mean,

> "those technical features which each of the claimed inventions, **considered as a whole, makes over the prior art.**" (Emphasis added)

In the instant case, the technical feature described by the examiner is the only feature which links together all of the claims in the two groups. Therefore, the special technical feature relied upon by the

examiner was appropriate. The additional limitations argued by the petitioner, including those found in the dependent claims, are not required by all of the claims and do not serve to link the two groups of inventions. However, this special technical feature of the method and device has been shown, at page 2 of the office action mailed December 13, 2004, to not make (be) a contribution over the prior art of Moya (US 2003/0113528). The petitioner has argued that Moya is not prior art against the instant claims. However, Moya has an effective filing date of at least September 14, 2000, which is prior to the effective filing date of the instant application. Finally, the petitioner has argued that even if Moya is considered to be prior art, the reference does not meet the feature of the multi-layer body having a micro-structure as claimed in Group I and Group II. However, Moya, with reference to Hirose et al. (US 5,627,042), discloses that a multi-layered body having a micro-structure is known in the prior art. Therefore, the examiner's finding that there is a lack of unity of invention between the groups as set forth in the restriction requirement was correct. The reason for such being that the groups constitute additional inventions not sharing a "special technical relationship" within the meaning of PCT Rule 13.2 since the identified "special technical feature" does not make a contribution over the prior art.

Accordingly, the petition is **DENIED.** The application remains in pending status awaiting a response to the office action mailed December 13, 2004.



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Mailed : 1-3-06

In re Application of : DECISION ON
Walter Schmidt et al. : PETITION
Serial No. 10/182,577 :
Filed: October 18, 2002
For: METHOD FOR FABRICATION MICRO-STRUCTURES WITH VARIOUS SURFACE PROPERTIES IN MULTI-LAYER BODY BY PLASMA ETCHING

This is a decision on the PETITION TO RECONSIDER THE PETITION DECISION mailed November 21, 2005.

In the instant request for reconsideration, Petitioner questions as to whether the Moya reference relied upon by the examiner in maintaining a holding of lack of unity has an effective filing date earlier than the effective filing date of the instant application. It is argued that if the effective filing date of Moya is after the effective filing date of the instant application, then the teachings of Moya could not be relied upon to maintain that a lack of unity exists.

The instant application claims priority on provisional application 60/179,334, filed on January 31, 2000. Therefore, the effective filing date of the instant application is January 31, 2000. The reference to Moya also claims priority to several provisional applications. Among those applications is 60/154,630, filed on September 17, 1999. The sections relied upon by the examiner in the Moya application are repeated word for word in the aforementioned provisional application, thereby providing 112 1st paragraph support for the subject matter. It is also noted that the two sections relied upon by the examiner in the office action merely refer to background knowledge. The two sections specifically refer to two patents which are said to teach the features relied upon by the examiner. The examiner could have alternatively cited these patents to show the special technical feature to be known. Both of these references were patented in 1997 which would also qualify as prior art and show that the instant claims lack unity. In any event, the Moya application shows the feature cited by the examiner and said application does in fact have 112, 1st paragraph support for the features relied upon. Therefore the Moya application has an effective filing date of September 17, 1999. Because this application qualifies as prior art, the lack of unity holding by the examiner was proper.

Accordingly, the original petition decision is maintained and the request to withdraw the restriction requirement is **DENIED.**

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28 MAY 2003

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#6

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In re Application of :
KREISER et al. :
U.S. Application No. 10/182,594 : DECISION ON PETITION
PCT No.: PCT/EP01/00607 :
Int. Filing Date: 19 January 2001 :
Priority Date: 28 January 2000 :
Attorney Docket No.: AZ.3189 :
For: APPARATUS FOR THE THERMAL :
TREATMENT OF SUBSTRATES

This is a decision on applicants' "Letter and Petition for Filing by Assignee pursuant to 37 CFR 1.47(a)" filed 07 November 2002 and "Letter in Response to Notice of Defective Response Dated March 4, 2003" filed 05 May 2003.

BACKGROUND

On 19 January 2001, applicants filed international application PCT/EP01/00607 which claimed a priority date of 28 January 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 02 August 2001. 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 expired at midnight on 28 August 2002.

On 26 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 first preliminary amendment.

On 07 October 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 07 November 2002, applicants filed "Letter and Petition for Filing by Assignee pursuant to 37 CFR 1.47(a)" and a declaration executed by six of the seven co-inventors.

On 04 March 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that the declaration filed 07 November 2002 was defective because the first inventor, Uew Kreiser, had not executed the declaration.

On 05 May 2003, applicants filed the present "Letter in Response to Notice of Defective Response Dated March 4, 2003."

DISCUSSION

The Notification of Defective Response (Form PCT/DO/EO/916) dated 04 March 2003 was mailed in error and is hereby **VACATED**.

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the non-signing joint inventor. Items (1), (3) and(4) have been satisfied.

Regarding item (2) above, petitioner states that Uwe Kreiser has refused to sign the application. Section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.), **Proof of Unavailability or Refusal**, states, in part:

> 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 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 Uwe Kreiser. The declaration of Josef Rapp states that, "Mr. Uwe Kreiser . . . was provided with a complete application on July 24, 2002 . . . Another reminder was sent to Mr. Kreiser on September 19, 2002, but again without success." However, no documentary evidence to support the refusal or the attempt was provided in Mr. Rapp'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 Uwe Kreiser, 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.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Uwe Kreiser under 37 CFR 1.47(a) at this time.

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

The Notification of Defective Response (Form PCT/DO/EO/916) dated 04 March 2003 was mailed in error and is hereby **VACATED**.

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
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28 AUG 2003

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Tijeras, NM 87059

In re Application of :
KREISER et al. :
U.S. Application No. 10/182,594 : DECISION ON PETITION
PCT No.: PCT/EP01/00607 :
Int. Filing Date: 19 January 2001 :
Priority Date: 28 January 2000 :
Attorney Docket No.: AZ.3189 :
For: APPARATUS FOR THE THERMAL TREATMENT OF SUBSTRATES :

This decision is in response to applicant's "Renewed Petition under 37 CFR 1.47(a) in Response to Decision Dated May 28, 2003" filed 28 July 2003. In a decision dated 28 May 2003, applicant's petition under 37 CFR 1.47(a) to accept the application without the signature of inventor, Mr. Uwe Kreiser, was dismissed without prejudice.

The petition for status under 37 CFR 1.47(a) is moot since the declarations filed 28 July 2003 with the present communication was executed by the previously non-signing inventor, Mr. Uwe Kreiser. As such, the submission is a proper reply to the Decision mailed May 28, 2003. The declarations filed 07 November 2002 and 28 July 2003 are acceptable under 37 CFR 1.497.

The application has an international filing date of 19 January 2001 under 35 U.S.C. 363 and a date of **28 July 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.

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JAN 11 2005
PATENT & TRADEMARK OFFICE

1645/1800

00005.001204

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	
	:	Examiner: Not Yet Assigned
AKIRA MIIKE, ET AL.	)	
	:	Group Art Unit: Not Yet Assigned
Application No.: 10/182,613	)	
	:	
I.A. Filing Date: February 7, 2001	)	
	:	
For: METHOD OF DETECTING SUBSTANCE	)	
	:	January 10, 2005

Commissioner for Patents
P. O. Box 1450
Alexandria, Virginia 22313-1450

DECLARATION OF EXPRESS
ABANDONMENT UNDER 37 C.F.R. § 1.138

Sir:

Applicants in the above-identified patent application, through their undersigned attorney, hereby expressly abandon that application.

Applicant's undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,

Attorney for Applicants
Lawrence S. Perry
Registration No. 31,865

FITZPATRICK, CELLA, HARPER & SCINTO
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NY_MAIN 475108v1

16 SEP 2004

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In re Application of	:	
AKIRA MIIKE, ET AL.	:	
Appl. No.: 10/182,613	:	DECISION UNDER
PCT No.: PCT/JP01/00833	:	37 CFR 1.181
Int. Filing Date: 07 February 2001	:	
Priority Date: 07 February 2000	:	
Agent's File Reference: 00005.001204	:	
For: METHOD OF DETECTING SUBSTANCE	:	

Applicants' 14 September 2004 petition under 37 CFR 1.181 requesting that the copy of the computer readable form of the Sequence Listing be accepted in lieu of the original filed on 11 October 2002 has been received. No petition fee is required. The petition is **GRANTED** as follows:

BACKGROUND

On 01 August 2002, applicants filed U.S. application 10/182,613 as a national stage entry of international application PCT/JP01/00833, which claimed priority to a Japanese application filed 07 February 2000.

On 05 March 2004, 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) informing applicants that the nucleotide and/or amino acid disclosure contained in the application does not comply with the requirements for such a disclosure under 37 CFR 1.821-1.825 on the grounds that a copy of the computer readable form (CRF) had not been submitted as required under 37 CFR 1.821(e).

On 11 October 2002, applicants filed a response to the Form PCT/DO/EO/905. Office records indicate that a disk was received. However, after a diligent search of the Office, the disk was never located.

On 14 September 2004, applicants filed the present petition forwarding, inter alia, a copy of the CRF as filed on 11 October 2002 and a copy of the return receipt postcard.

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 applicants have provided sufficient evidence that the response to the Form PCT/DO/EO/905 filed 11 October 2002 included, inter alia, a computer readable form of the Sequence Listing. The petition indicates that the copy of the CRF attached thereto is a true copy of the original filed on 11 October 2002. The copy of the return receipt postcard itemizes, inter alia, "Submission of Computer Readable Form". This is consistent with Office records indicating receipt of a disk on such date. Accordingly, the copy of the CRF accompanying the present petition may properly be **ACCEPTED** as having been filed on **11 October 2002.**

CONCLUSION

Applicants' petition under 37 CFR 1.181 for entry of the computer readable form as having been filed on 11 October 2002 is hereby **GRANTED.**

The present application is being forwarded to the DO/EO/US for treating the computer readable form of the Sequence Listing as having been filed on 11 October 2002.

Boris Milef
PCT Legal Examiner
PCT Legal Office

JSF/BM:jf

Jeremy Fleming
Paralegal Specialist
PCT Legal Office

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Birch, Stewart, Kolasch & Birch, LLP
P.O. Box 747
Falls Church, VA 22040-0747

In re Application of KLIMES et al	:	
U.S. Application No.: 10/182,618	:	DECISION ON PETITION
Int. Application No.: PCT/DE01/00002	:	
Int. Filing Date: 05 January 2001	:	UNDER 37 CFR 1.137(b)
Priority Date: 05 January 2000	:	
Attorney Docket No.: 3658-0106P	:	
For: MOBILE HAND-HELD UNIT COMPRISING A REUSABLE BIOSENSOR	:	

This is in response to 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 01 August 2002.

BACKGROUND

On 05 January 2001, applicant filed international application PCT/DE01/00002, which claimed priority of an earlier Germany application filed 05 January 2000. 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 on 03 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 05 July 2002.

International application PCT/DE01/00002 became abandoned as to the United States at midnight on 05 July 2002 for failure to pay the basic national fee.

On 01 August 2001, 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), 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 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.

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PCT Legal Examiner
PCT Legal Office

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APR 0 7 2008

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Washington D.C. 20005

In re Application of	:
HEINZ et al.	:
Serial No.: 10/182,634	:Decision on Petition
Filed : July 31, 2002	:
Attorney Docket No.: 51159	:

This letter is in response to the Petition under 37 C.F.R. 1.181 filed on February 7, 2008 requesting withdrawal of the finality of the Office Action mailed January 23, 2008.

BACKGROUND AND DISCUSSION

This application is a national stage filing under 35 USC 371 of PCT/GB02/03978 and, as such, is eligible for PCT unity of invention practice.

On June 21, 2005, the examiner mailed a lack of unity requirement in which the original claims 1-58 were divided in 19 groups with further requirements to elect sequences.

On July 18, 2005, Applicants elected Group 1, and SEQ ID NO: 1 and 2 with traverse. The response asserts that the nucleic acid molecules which are suitable for identifying and isolating elongase gene for PUFA biosynthesis provide the special technical feature and therefore fulfill the unity of invention requirement.

On October 11, 2005, the examiner mailed to applicants a non-final Office action examining Claims 30-31 and 33. The Office Action Summary further indicates that Claims 32, 34-58 are withdrawn from consideration. The examiner rejected the claims on the basis of 112, 2nd paragraph; 112, 1st paragraph; double patenting, and 35 U.S.C. 102.

On February 13, 2006, applicant filed amendments to the claims and a response to the outstanding office action.

On July 31, 2006, the examiner mailed a final Office action in which the Office action summary PTOL-326 form indicated that claims 31 and 33 were rejected. A review of the action also shows claim 30 being examined and rejected.

On May 3, 2007, the applicant filed a request for continued examination, amendments to the claims and arguments. The response states that claims 34, 36-50, 52-53 and 55-58 have been amended to depend on claim 31.

On July 25, 2007, the examiner considered the request for continued examination. The examiner further reconsidered the lack of unity requirement and found Claims 40-50, 52-53, 55-60 and 63-64 as distinct products that are not limited to the special technical feature of Claim 31 which is an isolated nucleic acid sequence of SEQ ID NO: 1. The examiner examined Claims 31, 33-34, 36-39, 61-62 on the merits. The examiner further rejected Claim 31 on the grounds of double patenting.

On October 25, 2007, the applicant further argued the lack of unity requirement and responded to the outstanding rejections.

On January 23, 2008, the examiner withdrew the double patenting rejection over claim 31. The examiner indicated that claims 45-50 and 57 are rejoined given that they are method claims that incorporate all of the limitations of allowable Claim 31 drawn to an isolated nucleic acid sequence. The examiner then rejected claims 45-50 and 57 and indicated the Office action was final. On the Office action summary, the examiner deemed Claims 31, 33, 34, 36-44, 61 and 62 as allowable and Claims 45-50 and 57 as rejected. However, Claims 50 and 57 appear to be listed as both withdrawn and rejected. The examiner notes, on page 2, that Claims 31, 33-34, 36-50, 57 and 61-62 are examined on the merits.

On February 7, 2008, applicants filed this petition to request that the Office reconsider the finality of the Office action mailed January 23, 2008.

DISCUSSION

The petition and file history have been carefully considered.

The final Office action included new rejections on claims 45-50 and 57 which had been withdrawn from consideration as being directed to a non-elected invention. Although this application is filed under 35 USC 371, and is subject to unity of invention practice per Chapter 1800 of the MPEP, this application is subject to product-process rejoinder practice per chapter 800 of the MPEP. See MPEP 1893.05(d) which states in part:

> If an examiner (1) determines that the claims lack unity of invention and (2) requires election of a single invention, when all of the claims drawn to the elected invention are allowable (i.e., meet the requirements of 35 U.S.C. 101, 102, 103 and 112), the nonelected invention(s) should be considered for rejoinder. Any nonelected product claim that requires all the limitations of an allowable product claim, and any nonelected process claim that requires all the limitations of an allowable process claim, should be

> rejoined. See MPEP § 821.04 and § 821.04(a). Any nonelected processes of making and/or using an allowable product should be considered for rejoinder following the practice set forth in MPEP § 821.04(b).

In the non-final rejection mailed July 25, 2007, a rejection under double patenting was presented. Upon reconsideration of the arguments filed by applicant, the examiner withdrawn the double patenting rejection, rejoined previously withdrawn claims and made the action final.

Because there were no outstanding prior art rejections applied to claim 31, in the 25 July 2007 Office action and because the double patenting rejection made over claim 31 was not sustainable, the process claims 45-50 and 57 that depend directly or indirectly from product claim 31 would necessarily share a special technical feature with the product claims under examination and should have been examined on the merits in the non-final Office action.

As provided in 821.04, the MPEP sets forth the guidelines for processes requiring an allowable product.

> The provisions of MPEP § 706.07 govern the propriety of making an Office action final in rejoinder situations. If rejoinder occurs after the first Office action on the merits, and if any of the rejoined claims are unpatentable, e.g., if a rejection under 35 U.S.C. 112, first paragraph is made, then the next Office action may be made final where the new ground of rejection was necessitated by applicant's amendment (or based on information submitted in an IDS filed during the time period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p)). See MPEP § 706.07(a).
>
> If restriction is required between product and process claims, for example, and all the product claims would be allowable in the first Office action on the merits, upon rejoinder of the process claims, it would not be proper to make the first Office action on the merits final if the rejoined process claim did not comply with the requirements of 35 U.S.C. 112, first paragraph. This is because the rejoinder did not occur after the first Office action on the merits. Note that the provisions of MPEP § 706.07(b) govern the propriety of making a first Office action on the merits final.

Here, product Claim 31 appears to have been allowable at the time of the RCE given the fact that the examiner withdrew the double patenting rejection upon reconsideration. Thus, it would not be proper to have made the next action final given the new rejections made over the rejoined process claims.

The final Office action is also considered to be incomplete or inconsistent as follows:

Only Claims 31, 33-34, 36-50, 57 and 61-62 were noted as examined on the merits by the examiner.

However, Claim 55 appears to be a combination of Claims 43 and 44 which were examined by the examiner. It would appear to follow that if Claim 43 and 44 are examined separately, then they should also have been examined when claimed together in claim 55.

Similarly, claims 56, 63 and 64 appear to have been improperly withdrawn from consideration in the final Office action for the following reasons.

Claim 56, in part, appears to be a kit comprising various embodiments previously examined as separate claims.

Claim 63 depends on and further limits Claim 40 and should be examined with claim 40.

Claim 64 depends on rejected Claim 45 and would appear to require all of the limitations of Claim 45.

For these reasons, the finality of the Office action mailed 23 January 2008 is premature.

DECISION

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

The finality of the Office action mailed January 23, 2008 has been withdrawn.

Claims 31, 33, 34, 36-47, 50, 52,-53, 55-56, 59-64 are under examination. The application will be forwarded to the examiner for action consistent with this decision and for preparation of a subsequent non-final Office action.

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

~~Christopher Low~~ John LeGuyader
Director, Technology Center 1600
jb/jg

15 NOV 2002

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#6

Karen DeBenedictis
Warner-Lambert Company
2800 Plymouth Road
Ann Arbor, MI 48105

In re Application of	:	
Burk et al.	:	
Application No. 10/182,656	:	DECISION ON
PCT No.: PCT/IB01/00024	:	
Int. Filing Date: 11 January 2001	:	PETITION UNDER
Priority Date: 27 January 2000	:	
Atty. Docket No.: A0000076-01-KD	:	37 CFR 1.137(b)
For: Asymmetric Synthesis of Pregabalin	:	

This is in response to the petition under 37 CFR 1.137(b) filed on 31 July 2002.

BACKGROUND

This international application was filed on 11 January 2001 and claimed earliest priority of an application filed on 27 January 2000. The International Bureau, under Article 20, transmitted a copy of the international application to the USPTO on 02 August 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 29 July 2002. (as 27 July 2002 was a Saturday). This international application became abandoned with respect to the United States for failure to timely pay the required basic national fee.

On 31 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. It is noted that applicants paid a basic national fee of $1040, but were entitled to pay a basic national fee of $890 since the international search report was prepared by the EPO. The $150 overage is being credited to counsel's deposit account no. 23-0455, as authorized by the accompanying transmittal letter and fee calculation sheet.

Regarding requirement (2), the petition fee accompanied the petition.

Regarding requirement (3), the petition includes a statement that "the entire delay in filing the required reply from the date for the reply until the filing of this Petition Under 37 C.F.R. § 1.137(b) was unintentional." This statement is being construed as a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement in the petition is not correct. Thus, the statement in the petition is being accepted in satisfaction of 37 CFR 1.137(b)(3).

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

Regarding the declaration filed contemporaneously with the petition, applicant is advised that it is unacceptable under 37 CFR 1.497 because counsel has not filed a complete copy of the declaration as signed by joint inventor Ramsden. Rather, applicant has filed a copy of a complete "Declaration And Power Of Attorney" form (comprising 4 pages) signed by the remaining joint inventors, and has attached a "Page 4 of 4a" showing the same information as the fourth sheet of the signed declaration, and signed by Mr. Ramsden. It is not clear whether Mr. Ramsden signed a complete copy of the declaration. Therefore, a new declaration (or a complete copy of the declaration signed by Mr. Ramsden) is required.

DECISION

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

This application is being forwarded to the National Stage Processing Branch for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the submission of an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge under 37 CFR 1.492(e).

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

19 JUL 2004

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#16

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON, MA 02110

In re Application of VERMEULEN et al :
U.S. Application No.: 10/182,658 :
PCT Application No.: PCT/US01/03136 : DECISION
Int. Filing Date: 31 January 2001 :
Priority Date Claimed: 31 January 2000 :
Attorney Docket No.: 04520/022002 :
For: USE OF THIOSTREPTON AS AN ANTI-MYCOBACTERIAL AGENT :

This is in response to applicant's "Petition to Withdraw Notification of Abandonment" filed 05 April 2004, which is being treated under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 31 January 2001, applicant filed international application PCT/US01/03136, which claimed priority of an earlier United States application filed 31 January 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 31 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 on 31 July 2002.

On 31 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 17 October 2002, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 02 February 2004, 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 respond to the Notification of Abandonment.

On 05 April 2004, applicant filed the present petition under 37 CFR 1.181

DISCUSSION

According to the Official Gazette at 1156 OG 53 and MPEP 711.03(c), a petition to withdraw a holding of abandonment based on failure to receive an Office communication must include: (1) a statement by the practitioner that the Office communication was not received by the practitioner, (2) a statement by the practitioner that he searched the application file jacket and docket records and that the search indicates that the Office communication was not received, and (3) a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

With regard to item (1) above, applicant's representative has provided the required statement.

With regard to item (2) above, applicant's representative has provided the required statement.

With regard to item (3) above, applicant's representative has supplied a docket record which lists responses due to the USPTO on 17 December 2003 for all cases handled by the representative. This docket record illustrates the absence of any listing of a response due to a Notification of Missing Requirements.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 31 January 2001, and a date under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) of 05 April 2004.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
Office of PCT Legal Administration

Telephone: 703-308-6614
Facsimile: 703-308-6459

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Leydig Voit & Mayer, LTD
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180 North Stetson Avenue
Chicago, IL 60601-6780

MAILED

MAR 25 2005

Director's Office
Group 3700

In re Application of
David Macher
Serial No. : 10/182,660
Filed : November 26, 2002
For : Device for Drying Shoes, Gloves or Garments

: DECISION ON PETITION
: TO WITHDRAW
: HOLDING OF
: ABANDONMENT

This is a decision on petitioner's request filed January 24, 2005, to review the holding of abandonment mailed December 1, 2004, for failure to respond to the Office action mailed May 4, 2004. There is no fee required for this petition.

In support of the request, petitioner has submitted a copy of a response, a copy of a one-month extension of time request, and a copy of a PTO stamped receipt dated September 7, 2004 as evidence of the timely filing of a response. The communication in question included a certificate of mailing dated September 2, 2004.

In view of the above, the Notice of Abandonment mailed December 1, 2004 is in error and is hereby vacated. The holding of abandonment is withdrawn. Upon the mailing of this decision, the application will be forwarded to the Examiner via the Legal Instruments Examiner for entry and consideration of the response received September 7, 2004.

Summary: Holding of Abandonment Withdrawn.

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

ak/03/24/05

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COHEN, PONTANI, LIEBERMAN & PAVANE
551 FIFTH AVENUE
SUITE 1210
NEW YORK NY 10176

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OFFICE OF PETITIONS

In re Patent No. 6,863,813	:	
Issued: 8 March, 2005	:	
Application No. 10/182,663	:	ON PETITION
Filed: 31 July, 2002	:	
Atty Docket No. 5305-2PUS	:	

This is a decision on the petition filed on 3 October, 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 a Certificate of Correction.

The petition is **granted**.

Telephone inquires concerning this matter may be directed to the undersigned at 571.272.3231. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at 703.305.8309.

It is noted that petitioner submitted $400.00 with the present petition. However, only a processing fee of $130.00 and certificate of correction fee of $100.00 are due. The balance will be credited to counsel's deposit account.

The file is being forwarded 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

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

17 OCT 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

#3

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

Edward J. Howard
DUANE MORRIS LLP
100 College Road West, Suite 100
Princeton, NJ 08540

In re Application of:
BARNARD, Thomas, J., et al.
U.S. Application No.: 10/182,664
PCT No.: PCT/US01/00489
International Filing Date: 08 January 2001
Priority Date: 06 January 2000
Attorney's Docket No.: LMC-19
For: SUBARRAY MATCHING BEAMFORMER APPARATUS AND METHOD

DECISION ON PETITION TO REVIVE ABANDONED APPLICATION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 31 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 reply until the filing of this Petition Under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

Applicant has now submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

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 a declaration in compliance with 37 CFR 1.497 and the surcharge for filing the declaration later than thirty months after the priority date.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

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OFFICE OF PETITIONS

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

In re Patent No. 7,612,046	:	DECISION ON REQUEST FOR
Rothenpieler, et al.	:	RECONSIDERATION OF
Issue Date: November 3, 2009	:	PATENT TERM ADJUSTMENT AND
Application No. 10/182,680	:	NOTICE OF INTENT TO ISSUE
Filed: September 27, 2002	:	CERTIFICATE OF CORRECTION
Attorney Docket No. 028622 0114	:	

This is a decision on the petition filed on December 28, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred and sevnty-one (771) 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 **five hundred and fifty-nine (559) 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, prior to any deduction for the period consumed by appellate review under 35 U.S.C. 134, 141,145 begins on August 1, 2005, and ends on May 9, 2007, the day before the RCE was filed, and is 647 (not 648) days. See 35 U.S.C. 154(b)(1)(B)(i).

37 CFR 1.703(b) indicates that the period of adjustment under 37 CFR 1.702(b) ("over three year period") is the number of days,

if any, in the period beginning on the day after the date that is three years after the actual filing date of the application and ending on the date a patent was issued. 35 U.S.C. 154(b)(1)(B). However, 37 CFR 1.703(b) also sets forth the limitations on patent term adjustment specified in 35 U.S.C. 154(b)(1)(B)(i) and (ii). Specifically, 37 CFR 1.703(b)(4) provides that the period of adjustment of the term of a patent shall not include the period equal to the sum of the period of pendency consumed by appellate review under 35 U.S.C. 134, 141, 145, whether successful or unsuccessful (35 U.S.C. 154(b)(1)(B)(ii)).

Patentees failed to account for the filing of the notice of appeal on October 10, 2006. The Office reminds patentee that the period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii). In this instance, the period consumed by appellate review is 211 days, beginning on the date on which the notice of appeal to the Board of Patent Appeals and Interferences was filed, October 10, 2006, and ending on the day before the date the Request for Continued Examination was filed, May 9, 2007. Thus, the B delay is 436 days (647 - 211). Accordingly, the patent term adjustment is 559 days (483 days of A delay + 436 days of B delay - 0 days of overlap - 360 days of applicant delay).

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 submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fee is due.

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 **five hundred and fifty-nine (559) days.**

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,612,046 B2

DATED : Nov. 3, 2009

INVENTOR(S) : Rothenpieler 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 (230) days

Delete the phrase "by 230 days" and insert – by 559 days--

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1940 DUKE STREET
ALEXANDRIA VA 22314

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OFFICE OF PETITIONS

In re Application of :
Akio Kojima et al :
Application No. 10/182,705 :
Filed: August 7, 2002 :
Attorney Docket No. 226404USOXPCT :

ON PETITION

This is a decision on the petition, filed September 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 May 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 1755 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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Rec'd PCT/PTO 24 OCT 2003

Docket No: 226165US3PCT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION: Dirk KOOPMANN et al.

SERIAL NUMBER: 10/182,727

FILED: November 14, 2002

FOR: METHOD FOR THE TRANSPORTING GLAZING THROUGH A COATING-DEPOSITING PLANT, AND TRANSPORT DEVICE FOR THE SAID GLAZING

PETITION UNDER 37 CFR 1.181 FOR CORRECTED NOTICE OF ACCEPTANCE

Assistant Commissioner for Patents
Washington, D.C. 20231

The U.S. PCT Receiving Branch is requested to provide a corrected Notification of Acceptance under 35 USC 371 for the following reasons:

The Date of Receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) Requirements is incorrect.

AND

The Date of Receipt of all 35 U.S.C. 371 requirements is incorrect.

A copy of our date-stamped filing receipt(s) is attached as evidence of the correct date(s).

Respectfully Submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

C. Irvin McClelland
Attorney for Applicant
Reg. No. 21,124
Surinder Sachar
Reg. No. 34,423

(703) 413-3000

O.S.&M. File No. 226165US3PCT By CIM/rkm/FF

Due date 11-27-02

Serial No. 10/182,727

In the Matter of the Application of Dirk KOOPMANN et al.

For METHOD FOR TRANSPORTING GLAZING THROUGH A COATING-DEPOSITING PLANT, AND TRANSPORT DEVICE FOR THE SAID GLAZING

The following has been received in the U.S. Patent Office on the date stamped hereon:

[ ] __ pgs. Specification, __Claims (English Translation)

[➤] Response to Notice of Missing Requirement Under 35 U.S.C. 371

[➤] Combined Declaration, Petition & Power of Attorney (4 pages)

[➤] Copy of Notification of Missing Requirements

[] Application Data Sheet

[➤] Preliminary Amendment

[] Petition for Extension of Time

[ ] Check for $____; [➤] Dep. Acct. Order Form

[ ] Verified Statement (Declaration) Claiming Small Entity Status

[ ] Submission of Verified Statement (Dec.) Claiming Small Entity Status

[ ] Declaration of _____

[ ] Letter Requesting Approval of Drawing Changes

[ ] Drawings ___ sheets

[ ] List of Related Cases

[ ] Information Disclosure Statement; [ ] PTO-1449

[ ] Cited References ( )

[ ] _____ Search Report

[ ] Statement of Relevancy

DATE RECEIVED Rec'd PCT/PTO 14 NOV 2002

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/182,737	08/14/2002	Masayoshi Tatemoto	021055	1951

23850 7590 03/11/2005

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

EXAMINER	
HARLAN, ROBERT D	

ART UNIT	PAPER NUMBER
1713	

DATE MAILED: 03/11/2005

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

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MAR 0 2003

In re Application of	:	
SAITO, HIDEYA, et al.	:	NOTICE OF WITHDRAWAL
Serial No. 10/182737	:	FROM ISSUE
Filed: August 14, 2002	:	UNDER 37 CFR 1.313(b)
For: PROCESS FOR PRODUCING FLUO-	:	
ROIONOMER, METHOD FOR PURIFICA-	:	
TION AND CONCENTRATION OF THE IONO	:	
MER, AND METHOD OF FILM FORMATION	:	

The above-identified application is withdrawn from issue after payment of the issue fee due to reopening of prosecution. See 37 CFR 1.313 (b).

The above-identified application is hereby withdrawn from issue.

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

Telephone inquiries should be directed to David Wu at (571) 272-1114.

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

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

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

cc: Allowed Files—Pk3-910

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JUL 2 8 2008

In re Application of :
Dirk Martin DAECKE, et al :
Application No. 10/182,771 : DECISION ON PETITION
Filed: November 25, 2002 : TO WITHDRAW
Attorney Docket No. 543822024000 : 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 8, 2008.

The request is **APPROVED**.

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

The request was signed by Deborah S. Gladstein on behalf of all the practitioners of record associated with Customer Number 25227.

All practitioners of record associated with Customer Number 25227 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).

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: DIRK MARTIN DAECKE
PESTALOZZISTR.40
80469 MUENCHEN
GERMANY

cc: IRA S. MATSIL
SLATER & MATSIL, LLP
17950 PRESTON ROAD, SUITE 1000
DALLAS, TX 75252

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Sonnenschein Nath & Rosenthal LLP
P.O. Box 061080
Wacker Drive Station, Sears Tower
Chicago, IL 60606-1080

In re Application of: Hideo Yamanaka Serial No.: 10/182,784 Filed: August 1, 2002 Attorney Docket No.: 09792909-5465	: : : : :	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 via facsimile transmission on September 26, 2005 and supplemented via facsimile transmission on March 28, 2006. There is no fee for this petition.

The petition is **GRANTED**.

The application was held abandoned for failure to timely file a proper response to the Office action mailed on September 4, 2003. A Notice of Abandonment was mailed on April 28, 2004.

Petitioner asserts that a response (an election of claims) to the Office action (a restriction requirement) was timely filed on October 6, 2003. To support this assertion, petitioner has submitted a copy of the response and a copy of a stamped return postcard which properly identifies and acknowledges receipt of the response by the Patent and Trademark Office (PTO) on October 6, 2003. October 4, 2003 fell on a Saturday so the original response would have been timely under the provisions of 37 C.F.R. § 1.7(a) if it had been received and matched with the application file.

A review of the application file record reveals that the response having been acknowledged on the stamped return postcard as being received in the PTO on October 6, 2003 is not of record in the application file and cannot be located. However, M.P.E.P. § 503 states 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. Accordingly, it is concluded that the response was timely received but lost after receipt thereof.

For the above stated reason, the petition is granted. The Notice of Abandonment mailed April 28, 2004 is hereby **VACATED** and the holding of abandonment is withdrawn.

The copy of the response filed with the petition on September 26, 2005 is accepted since the originally submitted response is lost.

The Technical Support Staff will enter the response filed with the petition on September 26, 2005 into the Patent Application Locating and Monitoring System (PALM) and the examiner will prepare an action based upon that response.

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

Robert Oberleitner, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

12 OCT 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RANDALL B. BATEMAN
BATEMAN IP LAW GROUP
8 EAST BROADWAY, SUITE 550
PO BOX 1319
SALT LAKE CITY UT 84110

In re Application of	:	
SCHLIEβMANN, Ursula et al.	:	
Application No.: 10/182,790	:	DECISION ON
PCT No.: PCT/EP01/00903	:	
Int. Filing Date: 27 January 2001	:	PETITION
Priority Date: 31 January 2000	:	
Attorney Docket No.: 2284.GLE.PT	:	UNDER 37 CFR 1.182
For: WATER TREATMENT PLANT	:	

This decision is in response to "Request to Accept Oath or Declaration," filed in the United States Patent and Trademark Office on 09 May 2005. It has been treated as a petition under 37 CFR 1.182. The fee will be charged to deposit account no. 50-2720, as authorized.

BACKGROUND

On 27 January 2001, applicants filed international application PCT/EP01/00903, claiming a priority date of 31 January 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 09 August 2001. The deadline for entry into the national stage in the United States was 31 July 2002.

On 31 July 2002, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee.

On 29 October 2002, the Office mailed Notification of Missing Requirements indicating that an oath or declaration was required.

On 29 January 2003, applicants submitted a declaration executed by the inventors and the fee for a one month extension of time.

On 24 April 2003, the Office mailed Notification of Acceptance (Form PCT/DO/EO/903) indicating that the requirements under 35 U.S.C. §371(c)(1), (c)(2) and (c)(4).

On 09 May 2005, applicants filed the instant petition under 37 CFR 1.182.

DISCUSSION

Applicants properly claimed priority to a German application in the international application, but failed to claim it in the national phase of the international. Applicants request that the Office correct their omission. The omission will be corrected. However, the declaration of the applicants contains

German language text, but it is not a USPTO form and is not accompanied by a statement that the English text is a translation of the German text. See 37 CFR 1.69.

Additionally, a review of the declaration submitted on 29 January 2003 reveals that it was similarly defective and appeared to be a composite declaration created from the combination of separately executed declarations. It contained one page one and one page two, but two pages each of three and four. Pages three and four listed the same applicants, but were separately executed. While it is acceptable for applicants to execute separate copies of the declaration. The entire declaration, as executed by the inventor, must be submitted. For these reasons, the Notification of Acceptance mailed 24 April 2003 is vacated.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.182 is **GRANTED**.

The Notification of Acceptance mailed 24 April 2003 is **VACATED**.

A proper response in the form of a statement under 37 CFR 1.69 or a new declaration executed on a current USPTO form 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 1.182".

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.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
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27 JAN 2006

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In re Application of	:	
SCHLIEβMANN, Ursula et al.	:	
Application No.: 10/182,790	:	DECISION ON
PCT No.: PCT/EP01/00903	:	
Int. Filing Date: 27 January 2001	:	PETITION
Priority Date: 31 January 2000	:	
Attorney Docket No.: 2284.GLE.PT	:	UNDER 37 CFR 1.182
For: WATER TREATMENT PLANT	:	

This decision is in response to "Response and Request For Reconsideration To Decision On Petition Under 37 CFR 1.182," filed in the United States Patent and Trademark Office on 22 November 2005.

BACKGROUND

On 27 January 2001, applicants filed international application PCT/EP01/00903, claiming a priority date of 31 January 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 09 August 2001. The deadline for entry into the national stage in the United States was 31 July 2002.

On 31 July 2002, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee.

On 29 October 2002, the Office mailed Notification of Missing Requirements indicating that an oath or declaration was required.

On 29 January 2003, applicants submitted a declaration executed by the inventors and the fee for a one month extension of time.

On 24 April 2003, the Office mailed Notification of Acceptance (Form PCT/DO/EO/903) indicating that the requirements under 35 U.S.C. §371(c)(1), (c)(2) and (c)(4).

On 09 May 2005, applicants filed a petition under 37 CFR 1.182, accompanied by a second declaration of the inventors.

On 12 October 2005, the Office mailed Decision On Petition Under 27 CFR 1.182, granting applicants' petition, but indicating that the declaration was not in compliance with 37 CFR 1.497(a)-(b) and that a statement under 37 CFR 1.69 or a new declaration was required.

On 22 November 2005, applicants submitted the instant renewed petition.

DISCUSSION

Applicants have now submitted the required statement under 37 CFR 1.69. The declaration submitted on 09 May 2005 complies with 37 CFR 1.497(a)-(b).

CONCLUSION

Applicants' renewed petition under 37 CFR 1.182 is **GRANTED**.

This application is being referred to the National Stage Processing Branch for preparation of a corrected Notification of Acceptance indicating a 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) date of 09 May 2005.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

14 APR 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Gregory J. Lavorgna
MARKS & CLERK
P.O. Box 957, Station B
Ottawa, Ontario K1P 5S7
Canada

In re Application of
DOYTCHINOV, Kostadin *et al*
Application No.: 10/182,795
PCT No.: PCT/CA01/00119
Int. Filing Date: 01 February 2001
Priority Date: 04 February 2000
Attorney Docket No.: 13699-US
For: ROUNDNESS STANDARD

DECISION ON REQUEST UNDER 37 CFR 1.497(d)

This is a decision on applicants' "Petition Under Rule 37 CFR 1.47(d)(1)" filed 05 December 2002 requesting to add Lorne Munro as an inventor in the above-captioned national stage application of PCT/CA01/00119. This is treated as a request under 37 C.F.R. 1.497(d).

BACKGROUND

On 24 September 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a properly executed oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee was required. Applicants were given two months to comply With extensions of time available pursuant to 37 CFR 1.136(a).

On 05 December 2002, applicants filed the instant request which was accompanied by, *inter alia*, a one-month extension and fee; the surcharge fee; a statement signed by Lorne Munro; and an executed declaration.

DISCUSSION

In the instant request, applicants request that "Lorne Munro be added as inventor under 37 CFR 1.47(d)(1)." In this case, it is 37 CFR 1.497(d) (not 37 CFR 1.47(d)) that applies when the inventorship in a national stage application filed under 35 U.S.C. 371 differs from that set forth in the international application (see 37 CFR 1.48(f)(1)).

37 CFR 1.497(d) states, in part:

(d) 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, or a change to the inventive entity has been effected under PCT Rule 92 bis subsequent to the execution of any declaration which was filed under PCT Rule 4.17(iv), the oath or declaration must be accompanied by:

(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).

Applicants included a document signed by Lorne Munro requesting to be added as an inventor in the above-captioned application. Mr. Munro states that the error in inventorship "occurred without deceptive intent." This declaration meets the requirements of item (1) above. The processing fee of $130.00 has been paid as required by item (2).

However, written consent of the assignee has not been submitted or even addressed in the instant request. A review of USPTO financial records reveals that an assignment fee was paid. Accordingly, applicants must provide the written consent of the assignee or declare that it is not required here. Thus, item (3) is not complete.

Therefore, all the requirements of 37 CFR 1.497(d) are not yet satisfied.

CONCLUSION

For the reason discussed above, applicants' request under 37 CFR 1.497(d) to add Lorne Munro as an inventor 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. Applicants must address item (3) above with any response. Extensions of time may be obtained under 37 CFR 1.136(a).

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.

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

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09 JUL 2003

Richard j. Mitchell
MARKS & CLERK
P.O. Box 957, Station B
Ottawa, Ontario K1P 5S7
Canada

In re Application of
DOYTCHINOV, Kostadin *et al*
Application No.: 10/182,795
PCT No.: PCT/CA01/00119
Int. Filing Date: 01 February 2001
Priority Date: 04 February 2000
Attorney Docket No.: 13699-US
For: ROUNDNESS STANDARD

DECISION ON REQUEST UNDER 37 CFR 1.497(d)

This is a decision on the documents submitted on 06 June 2003 which are treated as a renewed petition under 37 CFR 1.497(d).

BACKGROUND

On 14 April 2003, a decision dismissing applicants' petition was mailed because applicants failed to provide written consent of the assignee.

On 06 June 2003, applicants filed the instant renewed petition which was accompanied by, *inter alia*, a declaration of Dr. Arthur J. Carty, President of the National Research Council of Canada.

DISCUSSION

Lorne Munro was not listed as an inventor in the international publication, but is listed on the declaration filed on 05 December 2002 in the national stage application as a co-inventor. Applicants request to add Mr. Munro as a co-inventor and satisfied items (1) and (2) of 37 CFR 1.497(d) in the initial petition. Applicants did not provide written consent of the assignee.

In this renewed petition, applicants submitted a document consenting to add Lorne Munro as co-inventor in the above-captioned application which was signed by Dr. Arthur J. Carty as President of the National Research Council of Canada who claims to be the assignee. President is a position recognized as having the authority to sign for a corporation. However, applicants must also provide a "Statement Under 37 CFR 3.73(b)" or a copy of the executed assignment. *See* § 324 MPEP.

Therefore, the requirements of 37 CFR 1.497(d) are not yet complete.

CONCLUSION

Applicants' petition under 37 CFR 1.497(d) 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. 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

James Thomson
Attorney Advisor
PCT Legal Office

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02 SEP 2003

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Canada

In re Application of
DOYTCHINOV, Kostadin *et al*
Application No.: 10/182,795
PCT No.: PCT/CA01/00119
Int. Filing Date: 01 February 2001
Priority Date: 04 February 2000
Attorney Docket No.: 13699-US
For: ROUNDNESS STANDARD

DECISION ON REQUEST UNDER 37 CFR 1.497(d)

This is a decision on the documents submitted on 19 August 2003 which are treated as a renewed petition under 37 CFR 1.497(d).

BACKGROUND

On 09 July 2003, a decision dismissing applicants' petition was mailed. Applicants failed to provide either a "Statement Under 37 CFR 3.73(b)" or a copy of the executed assignment as required by the MPEP.

On 19 August 2003, applicants filed the instant renewed petition which was accompanied by, *inter alia*, a copy of the executed assignment.

DISCUSSION

Applicants previously submitted a document granting consent of the assignee to the addition of an inventor in the above-captioned application. However, applicants were requested to provide either a "Statement Under 37 CFR 3.73(b)" or a copy of the executed assignment pursuant to § 324 of the MPEP.

In this renewed petition, applicants have provided a copy of the executed assignment. Therefore, the requirements of 37 CFR 1.497(d) are not yet complete.

CONCLUSION

Applicants' request under 37 CFR 1.497(d) is hereby **GRANTED**.

The declaration filed 05 December 2002 is now in compliance with 37 CFR 1.497(a) and (b).

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 01 February 2001, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 05 December 2002.

This application is being forwarded to the United States Designated/Elected Office for further processing in accordance with this decision.

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MAR 18 2004

Michelle E. O'Brien
FINNEGAN, HENDERSON, FARABOW
GARRETT & DUNNER, LLP
1300 I Street, NW
Washington, D.C. 20005-3315

In re Application of	:	
Roberto CAVAZZUTI et al	:	
Serial No. 10/182830	:	DECISION ON PETITION
International Filing Date: August 2, 2002	:	
Attorney Docket No.: 5725.0795-01	:	

This is in response to applicant's "Petition to Make Special under 37 CFR 1.102(d) and MPEP 708.02, (II)" filed February 27, 2004.

A review of the petition shows that requirements of MPEP 708.02 have been met. Accordingly, the petition is granted. There is no provision for "withdrawal" from this special status.

Petition Granted.

Should there be any questions with regard to this letter please contact Cecilia Tsang by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0562 or by facsimile transmission to the Office general facsimile number.

Cecilia Tsang
Special Program Examiner, TC1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/23/09

TO SPE OF : ART UNIT 1619

SUBJECT : Request for Certificate of Correction for Appl. No.: 10182830 Patent No.: 7491749 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

_____ _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE

Art Unit

19 AUG 2002

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ALAN. W. FIEDLER
BECTON, DICKINSON AND COMPANY
1 BECTON DRIVE
FRANKLIN LAKES, NJ 07417-1880

In re Application of
COTE et al.
Serial No.: 10/182,833
PCT No.: PCT/US01/00350
Int. Filing Date: 05 January 2001
Priority Date: 12 January 2000
Attorney's Docket No.: P-4964.70
For: SYSTEMS AND METHODS FOR REDUCING INTRAOCULAR PRESSURE

: DECISION ON PETITION
: UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 25 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 $740 has been paid. The required petition fee of $1,280 has also been paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing including issuance of a Notification of Missing Requirements indicating that an oath or declaration executed by the inventors and the $130 surcharge for filing the oath or declaration after the thirty month period is required.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467

23 SEP 200

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Steven C. Bauman
Henkel Loctite Corporation
Legal Department
1001 Trout Brook Crossing
Rocky Hill, CT 06067

In re Application of :
Burdzy et al. :
US Application No.: 10/182,839 :
PCT Application No.: PCT/US01/27017 :
International Filing Date: 30 August 2001 : DECISION ON
Priority Date: 30 August 2000 : PETITION FOR REVIVAL
Attorney's Docket No.: LC-419 PCT/US : UNDER 37 CFR 1.137(b)
For: METHYLENE CHLORIDE-FREE AND :
OPTIONALLY METHANOL-FREE :
PAINT STRIPPER AND/OR GASKET :
REMOVAL COMPOSITIONS :

The petition to revive under 37 CFR 1.137(b), filed on 02 August 2002 in the above-captioned application, is hereby **DISMISSED as moot** as explained below.

On 30 August 2001, Applicants filed international application PCT/US01/27017, which claimed priority of an earlier U.S. provisional application filed on 30 August 2000. The period for paying the basic national fee is 30 months and ended at midnight on 28 February 2003. PCT Article 22(1)(a); 37 CFR 1.495(b)(2); MPEP 1893.01(a)(1) (Rev. 1, Feb. 2003).

The instant petition, filed on 02 August 2002, prior to commencement of the national stage in the United States, is accompanied by a transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371, authorizing the USPTO to charge the $710 basic national fee required by 35 U.S.C. 371(c)(1) and 37 CFR 1.492(a)(1) to Deposit Account No. 12-2135. Therefore, the instant international application did not become abandoned as to the United States for failure to timely pay the basic national fee. The petition is thus **DISMISSED as moot.**

The petition also encloses, *inter alia*, a declaration in compliance with 37 CFR 1.497(a) and (b). Applicants have met the requirements of 37 CFR 1.495 for acceptance into the national stage under 35 U.S.C. 371(c). Consequently, the application has an international filing date of 30 August 2001, and a 35 U.S.C. 371 date of 02 August 2002.

The $1,280 petition fee charged to Deposit Account No. 12-2135 on 07 August 2002 has been credited to the same deposit account.

The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing.

Boris Milef
PCT Legal Examiner
PCT Legal Office

RC Tang
Petitions Attorney
PCT Legal Office
Telephone: 703-308-1315
Facsimile: 703-308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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710 LAKEWAY DRIVE
SUITE 170
SUNNYVALE, CA 94085

MAILED

JAN 13 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re application of
Sang Won Lee
Application No. 10/182,853 :
Filed: August 2, 2002 :
For: METHOD AND SYSTEM FOR BILLING ON THE INTERNET :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on October 30, 2003, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition A) above.

The attorneys associated with Customer Number 25920 do not correspond with those named in the Power of Attorney in the declaration, thereby creating confusion as to who is withdrawing. To alleviate this problem, it is suggested that the request be resubmitted and that such request specifically state that the signing attorney is signing on behalf of himself and all attorneys of record in this application.

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

RAR/cps: 1/12/04

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

MARTINE & PENILLA, LLP
710 LAKEWAY DRIVE
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SUNNYVALE, CA 94085

In re application of
Sang Won Lee
Application No. 10/182,853 :
Filed: August 2, 2002 :
For: METHOD AND SYSTEM FOR BILLING ON THE INTERNET :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on January 26, 2004 under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

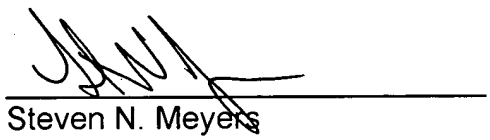
A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition B) above.

As to condition B) there is no indication in the file record of the foreign law firm Modern International of Korea being the "client", and responsible for payment of legal fees. Absent a 3.73(b) statement, 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 inventors. Therefore, the stated reason for the withdrawal that the law firm of Modern International has failed to pay for government fees and services rendered for attorney filing and prosecution in this application is improper. This statement does not satisfy one of the valid reasons for withdrawal under 37 CFR 10.40 (b)(1)-(4) or (c)(1)-(6). Condition B) can be met by *clearly specifying* one of the valid reasons for withdrawal listed under 37 CFR 10.40 (b)(1)-(4) or (c)(1)-(6).



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

SNM/cps: 2/17/04

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Paper No. None

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OFFICE OF PETITIONS

Ronald P Kananen
Rader Fishman & Grauer
Suite 501
1233 20th Street NW
Washington DC 20036

In re Application of	:	
Yoshiharu Nakajima	:	
Application No. 10/182,873	:	DECISION ON PETITION
Filing Date: August 1, 2002	:	UNDER 37 C.F.R. § 1.137(B)
Attorney Docket Number: SON-2278	:	
Title: POWER SUPPLY VOLTAGE	:	
CONVERTING CIRCUIT CONTROL	:	
METHOD THEREOF DISPLAY APPARATUS	:	
AND PORTABLE TERMINAL	:	

This is a decision on the petition under 37 C.F.R. §1.137(b)[1], filed July 31, 2006, to revive the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R §1.113 in a timely manner to the final Office action mailed December 28, 2005, which set a shortened statutory period for reply of three months. An after-final amendment was received on February 3, 2006, however it does not appear that an advisory action was mailed. No extensions of time under the provisions of 37 C.F.R §1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 29, 2006.

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1 A grantable petition pursuant to 37 C.F.R. 1.137(b) must be accompanied by:

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

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

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

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

With the present petition, Petitioner has submitted the petition fee, a response to the final Office action, a notice of appeal, and the proper statement of unintentional delay. A terminal disclaimer is not required.

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

The Notice of Appeal filed on July 28, 2006, has been entered and made of record. Accordingly, **the two (2) month period for filing the Appeal Brief, in triplicate, accompanied by the fee required by law, runs from the mailing date of this decision.**

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the notice of appeal which was received with the present petition can be processed. The Examiner will further mail an advisory action, in response to the after-final amendment which was received on February 3, 2006.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.

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

12 AUG 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Rosemary Kellogg
SWANSON & BRATSCHUN
1745 Shea Center Drive, Suite 330
Highlands, Ranch, Colorado 80129

In re Application of	:	
DEBECKER, Andy, et al.	:	
U.S. Application No.: 10/182,884	:	DECISION ON PETITION
PCT No.: PCT/NL01/00075	:	
International Filing Date: 01 February 2001	:	
Priority Date: 04 February 2000	:	
Attorney's Docket No.: VE.11	:	
For: FIBRE-REINFORCED PRESSURE VESSEL AND METHOD OF MANUFACTURING FIBRE-REINFORCED PRESSURE VESSEL	:	

This decision is issued in response to the submission under 37 CFR 1.47(a) filed by applicants on 07 April 2003. Applicants have paid the required petition fee.

BACKGROUND

On 01 February 2001, applicants filed international application PCT/NL01/00075 which claimed a priority date of 04 February 2000 and which designated the United States. On 09 August 2001, a copy of the international application was communicated to the USPTO by the International Bureau (IB).

On 07 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 19 months from the priority date. As a result, the deadline for submission of the basic national fee was extended to expire thirty months from the priority date, i.e., 04 August 2002.

On 01 August 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.

On 20 September 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 and a surcharge for providing the oath or declaration later than thirty months from the priority date were required. The Notification also informed applicants that the failure to submit these materials within two months of the date of the Notification would result in abandonment of the application.

On 31 March 2003, applicants filed the response considered herein. The response included a request and fee for the required five month extension and payment of the $130 surcharge. The response also included the present petition, which requests acceptance of the application under 37 CFR 1.47(a) without the signature of nonsigning inventor Andy Debecker, whom applicants claim has refused to sign the application.

DISCUSSION

A grantable petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17; (2) a statement of the last known address of the non-signing inventor; (3) an oath or declaration by the other inventors on behalf of themselves and the non-signing inventor; and (4) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort. As discussed below, applicants here have failed to satisfy item (4).

Regarding item (4), applicants' assert that Mr. Debecker refuses to execute the application. However, before a refusal to execute the application can be claimed, the MPEP § 409.03(d) requires that the nonsigning inventor be provided with a copy of the complete application, including specification, drawings, and claims. The MPEP also requires "a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made."

Here, the evidence submitted by applicants to demonstrate Mr. Debecker's purported refusal to execute the application is contained in the affidavit of Mr. B. Ch. Ledeboer, and its attachments. This affidavit refers to attempts made by the declarant Mr. Ledeboer to deliver to the nonsigning inventor the full application papers, as required before a refusal to sign can be asserted. However, these statements and the attached correspondence are not sufficient, on their own, to confirm that the nonsigning inventor has been provided with the application papers. The correspondence dated 21 November 2002 and 20 February 2003, referred to in the affidavit, both seem to have been returned undelivered. The affidavit does contain a reference to a "last attempt" to deliver the materials using both Certified Mail and Return Receipt Requested delivery, but this is not supported with details or documentary evidence. Finally, the affidavit refers to a telephone call between the nonsigning inventor and a Ms. M.A. van der Ent in which the nonsigning inventor purportedly confirmed receipt of the application papers and clearly stated tha he would not sign the application. However, this statement of refusal and confirmation of receipt is not supported with the required firsthand statement of Ms. van der Ent.

Based on the above, the evidence submitted with respect to applicants refusal to execute the application does not satisfy the requirements set forth in MPEP § 409.03(d). Accordingly, item (4) is not satisfied.

Applicants' have failed to satisfy all the requirements of a grantable petition under 37 CFR 1.47(a). The petition therefore cannot be granted on the present record.

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) 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)" and should include adequate evidence that the nonsigning inventor has been presented with a copy of the complete application papers and has refused to execute the application, as discussed above and in the form required by MPEP § 409.03(d) (i.e., statements from persons with firsthand knowledge setting forth the details of the delivery of the complete application papers to the nonsigning inventor and that he has refused to sign the application).

No additional petition fee is required. Failure to file a timely response will result in abandonment of the application.

Please direct further correspondence with respect to this matter 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 M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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15 SEP 2003

Rosemary Kellogg
SWANSON & BRATSCHUN
1745 Shea Center Drive, Suite 330
Highlands, Ranch, Colorado 80129

In re Application of	:	
DEBECKER, Andy, et al.	:	
U.S. Application No.: 10/182,884	:	DECISION
PCT No.: PCT/NL01/00075	:	
International Filing Date: 01 February 2001	:	
Priority Date: 04 February 2000	:	
Attorney's Docket No.: VE.11	:	
For: FIBRE-REINFORCED PRESSURE VESSEL AND METHOD OF MANUFACTURING FIBRE-REINFORCED PRESSURE VESSEL	:	

In a decision mailed by this Office on 12 August 2003, applicants' petition under 37 CFR 1.47(a) was dismissed without prejudice for failure to provide all the requirements of a grantable petition. Specifically, applicants had not provided adequate evidence that the nonsigning inventor, Andy Debecker, had refused to sign the application.

On 14 July 2003, applicants filed a declaration executed by the previously nonsigning inventor, Mr. Debecker (this declaration was not matched to the file until after the 12 August 2003 decision was issued).

Based on the submission of the declaration executed by Mr. Debecker, applicants' petition under 37 CFR 1.47(a) is now **MOOT.**

Applicants have now filed a, fully executed declaration incompliance with 37 CFR 1.497.

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. The 35 U.S.C. 371 date is 14 July 2003.

Richard M. Ross
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PCT Legal Office
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UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/182,904	08/02/2002	Andrew P Godbehere	540-368	6874

23117 7590 01/10/2008

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER	
COLE, ELIZABETH M	

ART UNIT	PAPER NUMBER
1794	

MAIL DATE	DELIVERY MODE
01/10/2008	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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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

wk

Mailed: 1-10-08

In re application of	:	
Godbehere et al.	:	DECISION ON
Serial No. 10/182,904	:	PETITION
Filed: August 2, 2002	:	
For: METHOD OF REINFORCING A LAMINATED	:	
MEMBER SUCH AS A SKIN FOR AN AIRCRAFT	:	

This is a response to applicants Petition To The Director Under 37 C.F.R. 1.181 filed on December 14, 2007. The petition requests that the Notice of Non-Compliant Appeal Brief mailed December 6, 2007 be withdrawn and that the Appeal Brief as filed be entered.

It is noted that the petition while addressing the merits of application 10/182,904 has a heading of application number 10/633,362 along with its accompanying file information. It is clear from the body of the petition request and the cover sheet submitted with the petition that applicant intended to address the arguments presented in application 10/182,904. As such, the heading of 10/633,362 has been ignored.

The Appeal Brief filed October 16, 2007 fully meets the requirements of the rules, in view of the first Notification of Non-compliant Appeal Brief mailed September 26, 2007.

DECISION

The Petition is **GRANTED**.

Jacqueline M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Stanley C. Spooner
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

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)
6936140	2005-08-30	10182905	2002-08-02	

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	/Benoit Castel/	Date (YYYY-MM-DD)	2009-09-08
Name	Benoit Castel	Registration Number	35041

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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In re Patent No. 6936140
Issue Date: August 30,2005
Application No. 10182905
Filed: August 2,2002
Attorney Docket No. 6002-1012

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

This is a decision on the electronic petition, filed September 8,2009 ,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 8,2009 . 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.

02 OCT 2002

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

Eric S. Hyman
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN, LLP
12400 Wilshire Blvd, Seventh Floor
Los Angeles, CA 90025

In re Application of
TOUSSAERE et al.
Serial No.: 10/182,923
PCT No.: PCT/FR01/00016
Int. Filing Date: 03 January 2001
Priority Date: 04 January 2000
Attorney's Docket No.:15675-P407
For: METHOD FOR OPTICAL DATA RECORDING

: DECISION ON PETITION
: UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 29 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 $890 has now been paid. The required petition fee of $1280 has also been paid. The application went abandoned for failure to pay the basic national fee by the thirty month deadline. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for further processing including issuance of a Notification of Missing Requirements indicating that an English translation of the international application as filed and an oath or declaration executed by the inventors along with the $130 processing fee for the translation and $130 surcharge for filing the oath or declaration after the thirty month period is required.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467

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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

COPY MAILED

APR 27 2006

OFFICE OF PETITIONS

In re Application of	:	
Priewe et al.	:	
Application No. 10/182,933	:	ON PETITION
Filed: July 31, 2002	:	
Attorney Docket No. ETH1425	:	

This is a decision on the petition under 37 CFR 1.181, filed January 10, 2005, requesting the withdrawal of the holding of abandonment in the above-identified application and has been so treated.

The petition to withdraw the holding of abandonment is **GRANTED.**

The above-identified application was held abandoned for failure to timely reply to the final Office action mailed March 15, 2004, which set a shortened statutory period for reply of three (3) months. A reply was due on or before June 15, 2004. A Notice of Abandonment was mailed on December 1, 2004.

Petitioner states that the reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of the return postcard, which acknowledges receipt by the U.S. Patent and Trademark Office (USTPO) on April 28, 2004 of a Request for Continued Examination (RCE). Additionally, petitioner has supplied a copy of the previously mailed correspondence, which bears a certificate of mailing date of April 26, 2004.

The reply acknowledged as having been received in the USPTO on April 28, 2004 (certificate of mailing date of April 26, 2004) is not of record in the application file and cannot be located. However, MPEP 503 states that "A post card receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the reply was timely received in the USPTO but was apparently lost after receipt thereof.

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

A petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 does not require a fee and none has been charged.

This matter is being referred to Technology Center AU 3738 for further examination on the merits.

Telephone inquiries concerning this decision should be directed to Petitions Examiner Liana Chase at (571) 272-3206.

Frances Hicks
Petitions Examiner
Office of Petitions

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BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. Box 1404
Alexandria, Va. 22313-1404

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JUL 2 7 2004

OFFICE OF PETITIONS

In re Application of
Kristina M. Allen et al.
Application No. 10/182,936
International
Filing Date: December 5, 2001
For: REAGENTS AND METHODS FOR MODULATING DKK-MEDIATED INTERACTIONS
Attorney Docket No: 032796-143
Pub. No.: US 2004/0038860 A1
Pub. Date: February 26, 2004

This is a decision on the request for correction of patent application publication under 37 CFR 1.221 (b), filed on April 23, 2004 for the above-identified application.

The request is DISMISSED.

The instant request is that the application be republished because the patent application 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 error in omitting the three inventor's names on the front page of the publication is an Office error, but it is not a material error. The error does not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The three Declarations submitted by applicant on September 2, 2002 are improper because the Declarations name different inventive entities. The first Declaration submitted by applicant lists Kristina Allen, Anthony Anisowicz and Veronique Damagnez as the inventive entity. The

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

second and third Declarations submitted by applicant lists John Robinson, Paul Yaworsky and Bheem Bhat as the inventive entity. When multiple Declarations are submitted, each Declaration must contain a complete listing of all the inventors.

The application is being forwarded to PCT Legal for handling the improper Declarations.

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 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 the 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 (703) 308-8122 (voice).

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

27 MAY 2003

#10

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Steven W. Smith
ERICSSON INC.
6300 Legacy Drive, M/S EVW 2-C-2
840 Central Parkway East
Plano, TX 75024

In re Application of :
PEREZ, Javier *et al* :
Application No.: 10/182,955 :
PCT No.: PCT/EP01/00237 :
Int. Filing Date: 10 January 2001 :
Priority Date: 04 February 2000 :
Attorney Docket No.: 1121-0031 : **COMMUNICATION**
For: COMMUNICATION SYSTEM METHOD, :
AND CONTROLLER FOR ROUTING :
CALLS WITHIN PRIVATE NETWORKS :
DISTRIBUTED AMONG :
GEOGRAPHICALLY DISTANT ZONES :

This communication is in response to the declaration submitted 11 March 2003.

BACKGROUND

On 09 December 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, *inter alia*, that a signed oath/declaration in compliance with 37 CFR 1.497(a) and (b) must be provided. Applicants were given two months to respond with extensions of time available pursuant to 37 CFR 1.136(a).

On 24 December 2002, applicants filed response to the Form PCT/DO/EO/905 which included, *inter alia*, an executed declaration and authorization to charge any additional fees to Deposit Account No. 50-01379. However, the declaration was not in compliance with 37 CFR 1.497(a) and (b) because the second named inventor listed their name as Javier Perez Fernandez on the declaration, rather than the way it appears on the international publication, *i.e.*, Javier Perez. In addition, the third named inventor listed their name as Jesus-Javier Arauz-Rosado on the declaration, rather than the way it appears on the international publication, *i.e.*, Jesus-Javier Arauz.

On 10 February 2003, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that the declaration filed 24 December 2002 does not comply with 37 CFR 1.497(a) and (b) because of no documentation supporting the inventors' name changes. A one-month time limit, or the time remaining in the Form PCT/DO/EO/905, whichever was longer, was set for response.

On 11 March 2003, applicants submitted another executed declaration which identified all of the inventors as listed on the international publication. No explanation regarding the change in the family name from the names listed on the 24 December 2002 declaration was provided.

DISCUSSION

Section 605.04(b) of the Manual of Patent Examining Procedure (MPEP) states that "37 CFR 1.63(a) (2) requires that each inventor be identified by full name, including the family name, and at least one given name without abbreviation together with any other given name or initial in the oath or declaration."

Here, applicants submitted an executed declaration on 24 December 2002 listing two of the three co-inventors as Javier Perez Fernandez and Jesus-Javier Arauz-Rosado. Then applicants submitted another declaration on 11 March 2003 listing the two co-inventors as Javier Perez and Jesus-Javier Arauz. Counsel did not submit an explanation regarding the prior name change. The names of the two co-inventors were listed as Javier Perez and Jesus-Javier Arauz on the international publication ("WO 01/58091") dated 09 August 2001.

Due to the contradictory information of the names of the two inventors listed on the two declarations submitted in the above-captioned application, an explanation is required under these circumstances. If the two co-inventors legally changed their family name, they must be identified as such on the declaration. *See* MPEP § 605.04(b) above. A petition is required to change the name of an inventor. Section 605.04(c) of the MPEP explains this procedure and states, in part:

> The petition must include an appropriate petition fee and an affidavit signed with both names and setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

CONCLUSION

Applicants must explain the discrepancy in the names of the inventors, and provide a petition to change their names, if applicable, within **ONE (1) MONTH** from the mail date of this communication, or any time remaining in the Form PCT/DO/EO/905, whichever is longer. Failure to submit the required reply will result in the abandonment of this application.

Applicants are advised that the correspondence address has changed. 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
PCT Legal Office

Tel.: (703) 308-6457

03 JUL 2003

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#12

Steven W. Smith
ERICSSON INC.
6300 Legacy Drive, M/S EVW 2-C-2
840 Central Parkway East
Plano, TX 75024

In re Application of :
PEREZ, Javier *et al* :
Application No.: 10/182,955 :
PCT No.: PCT/EP01/00237 :
Int. Filing Date: 10 January 2001 : **DECISION**
Priority Date: 04 February 2000 :
Attorney Docket No.: 1121-0031 :
For: COMMUNICATION SYSTEM METHOD, :
AND CONTROLLER . . . :

This decision is in response to applicants' "Petition for Inventor Name Change Under 37 C.F.R. 1.182" filed via facsimile on 18 June 2003 and again on 23 June 2003.

BACKGROUND

On 24 December 2002, applicants filed an executed declaration listing the second named inventor as Javier Perez Fernandez, rather than the way it appears on the international publication, Javier Perez. Also, the third named inventor recorded their name as Jesus-Javier Arauz-Rosado on the declaration, rather than the way it appears on the international publication, Jesus-Javier Arauz.

On 10 February 2003, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that the declaration does not comply with 37 CFR 1.497(a) and (b) because there was no documentation supporting the inventors' name changes.

On 11 March 2003, applicants submitted another executed declaration which identified all of the inventors the same way as they are recorded on the international publication. No explanation regarding the change in the names from the names listed on the 24 December 2002 declaration was provided.

On 27 May 2003, a communication requesting an explanation for the contradictory information on the declarations was mailed.

On 18 June 2003 via facsimile and again on 23 June 2003, applicants filed the instant petition which was accompanied by, *inter alia*, an "Affidavit of Javier Perez Fernandez" and an "Affidavit of Jesus-Javier Arauz-Rosado."

DISCUSSION

Counsel explains that both names listed on the two declarations filed 24 December 2002 and 11 March 2003 are the co-inventors legal names, that no legal name change was made or required, and that the addition of a maternal surname is a matter of preference and custom in Spain. This response is sufficient to explain the discrepancy of the names in each declaration and counsel's actions were appropriate.

Nonetheless, applicants request that the name of each inventor be changed to their more formal names listed on the declaration filed 24 December 2002. Section 605.04(c) of the MPEP explains this procedure and states, in part:

> The petition must include an appropriate petition fee and an affidavit signed with both names and setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

Applicants included affidavits from Javier Perez Fernandez and Jesus-Javier Arauz-Rosado explaining that the addition of their mother's maiden name is a discretionary custom in Spain and that is the style of their name requested to be used in the above-captioned application. This explanation meets the requirement of the MPEP above in explaining the procedure effecting the name changes.

The petition fee of $130.00 for each petition has been charged to Deposit Account No. 50-1379 as authorized.

CONCLUSION

Both of applicants' petitions under 37 CFR 1.182 are hereby **GRANTED**.

The declaration filed 24 December 2002 is now in compliance with the requirements of 37 CFR 1.497(a) and (b).

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/182,955	12/24/2002	Francisco Parra-Moyano	1121-0031	2074

7590 06/02/2010

Steven W Smith
Ericsson Inc
6300 Legacy Drive M/S EVW-2-C-2
Plano, TX 75024

EXAMINER	
TIEU, BINH KIEN	

ART UNIT	PAPER NUMBER
2614	

MAIL DATE	DELIVERY MODE
06/02/2010	PAPER

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

The time period for reply, if any, is set in the attached communication.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100527

DATE : June 1, 2010

TO SPE OF : ART UNIT 2614

SUBJECT : Request for Certificate of Correction on Patent No.: 7,356,040

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 corrections of errors which were the fault of both of the Applicants and USPTO, filed in the "Request for Certificate of Correction on 08/27/2008", on page 2 through page 6 were carefully reviewed and approved.

SPE: /CURTIS KUNTZ/ **Art Unit** 2614

*** OK. to Approved.
Date: May 27, 2010
/BKT/

PTO/SB/44 (04-05)
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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,356,040 B2

APPLICATION NO. : 10/182,955

ISSUE DATE : April 8, 2008

INVENTOR(S) : Parra-Moyano 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:

On the Face Page, in Field (57), under "ABSTRACT", in Column 2, Line 8, delete "determing" and insert - - determining - -, therefor.

On the Face Page, in Field (57), under "ABSTRACT", in Column 2, Line 14, delete "setting-up" and insert - - setting up - -, therefor.

On Page 2, in Field (56), under "OTHER PUBLICATIONS", in Column 2, Line 4, delete "Inter-Gaterkeeper" and insert - - Inter-Gatekeeper - -, therefor.

In Fig. 1, Sheet 1 of 9, for Tag "ZC", delete "H.323 EP-C1" and insert - - H.323 EP-C_1 - -, therefor.

In Fig. 1, Sheet 1 of 9, delete Tag "JNET 1" and insert Tag - - INET1 - -, therefor.

In Fig. 1, Sheet 1 of 9, for Tag "ZA", delete "H.323 EP-A1" and insert - - H.323 EP-A_1 - -, therefor.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

6300 Legacy, MS EVR 1-C-11
Plano, TX 75024
972-583-8656

This collection of information is required by 37 CFR 1.322, and 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 Patent, P.O. Box 1450, Alexandria, VA 22313-1450.**

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,356,040 B2

APPLICATION NO. : 10/182,955

ISSUE DATE : April 8, 2008

INVENTOR(S) : Parra-Moyano 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 Fig. 1, Sheet 1 of 9, for Tag "ZA", delete "H.323 EP-A2" and insert - - H.323 EP-A_2 - -, therefor.

In Fig. 1, Sheet 1 of 9, for Tag "ZA", delete "H.323 EP-A3" and insert - - H.323 EP-A_3 - -, therefor.

In Fig. 1, Sheet 1 of 9, for Tag "ZB", delete "H.323 EP-B1" and insert - - H.323 EP-B_1 - -, therefor.

In Fig. 1, Sheet 1 of 9, for Tag "ZB", delete "H.323 EP-B2" and insert - - H.323 EP-B_2 - -, therefor.

In Fig. 3a, Sheet 3 of 9, for Tag "ZC", delete "H.323 EP-C1" and insert - - H.323 EP-C_1 - -, therefor.

In Fig. 3a, Sheet 3 of 9, delete Tag "JNET 2" and insert Tag - - INET2 - -, therefor.

In Fig. 3a, Sheet 3 of 9, for Tag "ZA", delete "H.323 EP-A1" and insert - - H.323 EP-A_1 - -, therefor.

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,356,040 B2

APPLICATION NO. : 10/182,955

ISSUE DATE : April 8, 2008

INVENTOR(S) : Parra-Moyano 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 Fig. 3a, Sheet 3 of 9, for Tag "ZA", delete "H.323 EP-A2" and insert - - H.323 EP-A_2 - -, therefor.

In Fig. 3a, Sheet 3 of 9, for Tag "ZA", delete "H.323 EP-A3" and insert - - H.323 EP-A_3 - -, therefor.

In Fig. 3a, Sheet 3 of 9, for Tag "ZB", delete "H.323 EP-B1" and insert - - H.323 EP-B_1 - -, therefor.

In Fig. 3a, Sheet 3 of 9, for Tag "ZB", delete "H.323 EP-B2" and insert - - H.323 EP-B_2 - -, therefor.

In Fig. 10a, Sheet 8 of 9, Line 12, delete "CryptoH323Token" and insert - - CryptoH.323Token - -, therefor.

In Fig. 10b, Sheet 8 of 9, Line 12, delete "CryptoH323Token" and insert - - CryptoH.323Token - -, therefor.

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,356,040 B2

APPLICATION NO. : 10/182,955

ISSUE DATE : April 8, 2008

INVENTOR(S) : Parra-Moyano 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 2, Line 54, delete "G-B." and insert - - GW-B. - -, therefor.

In Column 3, Line 15, delete "CK-A" and insert - - GK-A - -, therefor.

In Column 4, Line 14, delete "the_Transport" and insert - - the Transport - -, therefor.

In Column 4, Line 28, delete "G-A," and insert - - GK-A, - -, therefor.

In Column 4, Line 38, delete "GB-B" and insert - - GK-B - -, therefor.

In Column 6, Line 28, delete "h.323" and insert - - H.323 - -, therefor.

In Column 6, Line 36, delete "h.323" and insert - - H.323 - -, therefor.

In Column 8, Line 57, delete "(claim 23)" and insert - - (claim 24) - -, therefor.

In Column 11, Line 22, delete "H.323" and insert - - H.323; - -, therefor.

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,356,040 B2

APPLICATION NO. : 10/182,955

ISSUE DATE : April 8, 2008

INVENTOR(S) : Parra-Moyano 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 22-23, delete "10b standard modified in ……the invention;" and insert - - Fig. 10b standard modified in ……the invention; - -, therefor on Line 23.

In Column 12, Line 65, delete "indentifier" and insert - - identifier - -, therefor.

In Column 15, Line 19, delete "and_859," and insert - - and 859, - -, therefor.

In Column 15, Line 30, delete "preferred_example." and insert - - preferred example. - -, therefor.

In Column 15, Line 53, delete "belongs to "PN1"" and insert - - "belongs to PN1" - -, therefor.

In Column 17, Line 45, delete "GK-1," and insert - - GK-2, - -, therefor.

In Column 19, Line 21, delete "nonStandardData" and insert - - NonStandardData - -, therefor.

In Column 19, Lines 24-25, delete "nonStandardData" and insert - - NonStandardData - -, therefor.

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This collection of information is required by 37 CFR 1.322, and 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 Patent, P.O. Box 1450, Alexandria, VA 22313-1450.**

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,356,040 B2

APPLICATION NO. : 10/182,955

ISSUE DATE : April 8, 2008

INVENTOR(S) : Parra-Moyano 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 20, Line 10, delete "INIT1" and insert - - INET1 - -, therefor.

In Column 21, Line 51, delete "a_given" and insert - - a given - -, therefor.

In Column 22, Line 50, delete "circuit_networks" and insert - - circuit networks - -, therefor.

In Column 28, Line 34, in Claim 8, delete "(GPQ)" and insert - - (GRQ) - -, therefor.

In Column 28, Line 47, in Claim 9, delete "(RASTA. RA" and insert - - (RASTA, RA - -, therefor.

In Column 29, Line 30, in Claim 13, delete "A" and insert - - The - -, therefor.

In Column 29, Line 59, in Claim 15, delete "(EP-B2)" and insert - - (EP-B_2) - -, therefor.

In Column 30, Line 34, in Claim 18, delete "(VOICE. INET2)" and insert - - (VOICE, INET2) - -, therefor.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

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PTO/SB/44 (04-05)
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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,356,040 B2

APPLICATION NO. : 10/182,955

ISSUE DATE : April 8, 2008

INVENTOR(S) : Parra-Moyano 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 30, Line 35, in Claim 18, delete "(EP-B2)" and insert - - (EP-B_2) - -, therefor.

In Column 31, Line 8, in Claim 22, delete "(ZA,. ZB" and insert - - (ZA, ZB - -, therefor.

In Column 31, Line 25, in Claim 22, delete "(GRQ. GCF" and insert - - (GRQ, GCF - -, therefor.

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Plano, TX 75024
972-583-8656

This collection of information is required by 37 CFR 1.322, and 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 Patent, 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.

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF: U.S. Patent No. 7,356,040

USPTO CONFIRMATION CODE: 2074

APPLICATION NO.: 10/182,955

PCT FILED: January 10, 2001

U.S. FILED: December 24, 2002

EXAMINER: Binh K. Tieu

GROUP ART UNIT: 2614

FOR: COMMUNICATION SYSTEM, METHOD AND CONTROLLER FOR ROUTING CALLS WITHIN PRIVATE NETWORKS DISTRIBUTED AMONG GEOGRAPHICALLY DISTANT ZONES

37 CFR 1.322 & 37 CFR 1.323 REQUEST FOR CERTIFICATE OF CORRECTION FOR USPTO AND/OR APPLICANT MISTAKE

HONORABLE COMMISSIONER OF PATENTS & TRADEMARKS

SIR:

The following is a request for a certificate of correction in Serial Number 10/182,955, now Patent Number 7,356,040.

A certificate of correction under 35 USC 254 is respectfully requested in the above-identified patent.

The errors were the fault of both the applicant and USPTO and, accordingly, please charge **$100.00** to our Deposit Account No. 50-1379. In the event that a further fee is required, please charge the amount to the same Deposit Account.

The exact locations where the errors appear in the patent and patent application are as follows:

On the Face Page, in Field (57), under "ABSTRACT", in Column 2, Line 8, delete "determing" and insert - - determining - -, therefor.
(INTERNATIONAL PUBLISHED APPLICATION, IN THE ABSTRACT DATED AUGUST 2, 2002, PAGE 1, FIELD (57), LINE 10)

On the Face Page, in Field (57), under "ABSTRACT", in Column 2, Line 14, delete "setting-up" and insert - - setting up - -, therefor.
(INTERNATIONAL PUBLISHED APPLICATION, IN THE ABSTRACT DATED AUGUST 2, 2002, PAGE 1, FIELD (57), LINE 17)

On Page 2, in Field (56), under "OTHER PUBLICATIONS", in Column 2, Line 4, delete "Inter-Gaterkeeper" and insert - - Inter-Gatekeeper - -, therefor.
(LIST OF REFERENCES CITED BY APPLICANT AND CONSIDERED BY EXAMINER DATED JUNE 13, 2007, SHEET 2 OF 2, UNDER "OTHER DOCUMENTS", ENTRY 4, LINE 1)

In Fig. 1, Sheet 1 of 9, for Tag "ZC", delete "H.323 EP-C1" and insert - - H.323 EP-C_1 - -, therefor.
(INTERNATIONAL PUBLISHED APPLICATION, IN THE DRAWINGS DATED AUGUST 2, 2002, SHEET 1/9, FIGURE 1, TAG "ZC")

In Fig. 1, Sheet 1 of 9, delete Tag "JNET 1" and insert Tag - - INET1 - -, therefor.
(INTERNATIONAL PUBLISHED APPLICATION, IN THE DRAWINGS DATED AUGUST 2, 2002, SHEET 1/9, FIGURE 1)

In Fig. 1, Sheet 1 of 9, for Tag "ZA", delete "H.323 EP-A1" and insert - - H.323 EP-A_1 - -, therefor.
(INTERNATIONAL PUBLISHED APPLICATION, IN THE DRAWINGS DATED AUGUST 2, 2002, SHEET 1/9, FIGURE 1, TAG "ZA")

In Fig. 1, Sheet 1 of 9, for Tag "ZA", delete "H.323 EP-A2" and insert - - H.323 EP-A_2 - -, therefor.
(INTERNATIONAL PUBLISHED APPLICATION, IN THE DRAWINGS DATED AUGUST 2, 2002, SHEET 1/9, FIGURE 1, TAG "ZA")

In Fig. 1, Sheet 1 of 9, for Tag "ZA", delete "H.323 EP-A3" and insert - - H.323 EP-A_3 - -, therefor.
(INTERNATIONAL PUBLISHED APPLICATION, IN THE DRAWINGS DATED AUGUST 2, 2002, SHEET 1/9, FIGURE 1, TAG "ZA")

In Fig. 1, Sheet 1 of 9, for Tag "ZB", delete "H.323 EP-B1" and insert - - H.323 EP-B_1 - -, therefor.
(INTERNATIONAL PUBLISHED APPLICATION, IN THE DRAWINGS DATED AUGUST 2, 2002, SHEET 1/9, FIGURE 1, TAG "ZB")

In Fig. 1, Sheet 1 of 9, for Tag "ZB", delete "H.323 EP-B2" and
insert - - H.323 EP-B_2 - -, therefor.
(INTERNATIONAL PUBLISHED APPLICATION, IN THE DRAWINGS DATED AUGUST 2, 2002, SHEET 1/9, FIGURE 1, TAG "ZB")

In Fig. 3a, Sheet 3 of 9, for Tag "ZC", delete "H.323 EP-C1" and
insert - - H.323 EP-C_1 - -, therefor.
(INTERNATIONAL PUBLISHED APPLICATION, IN THE DRAWINGS DATED AUGUST 2, 2002, SHEET 3/9, FIGURE 3a, TAG "ZC")

In Fig. 3a, Sheet 3 of 9, delete Tag "JNET 2" and
insert Tag - - INET2 - -, therefor.
(INTERNATIONAL PUBLISHED APPLICATION, IN THE DRAWINGS DATED AUGUST 2, 2002, SHEET 3/9, FIGURE 3a)

In Fig. 3a, Sheet 3 of 9, for Tag "ZA", delete "H.323 EP-A1" and
insert - - H.323 EP-A_1 - -, therefor.
(INTERNATIONAL PUBLISHED APPLICATION, IN THE DRAWINGS DATED AUGUST 2, 2002, SHEET 3/9, FIGURE 3a, TAG "ZA")

In Fig. 3a, Sheet 3 of 9, for Tag "ZA", delete "H.323 EP-A2" and
insert - - H.323 EP-A_2 - -, therefor.
(INTERNATIONAL PUBLISHED APPLICATION, IN THE DRAWINGS DATED AUGUST 2, 2002, SHEET 3/9, FIGURE 3a, TAG "ZA")

In Fig. 3a, Sheet 3 of 9, for Tag "ZA", delete "H.323 EP-A3" and
insert - - H.323 EP-A_3 - -, therefor.
(INTERNATIONAL PUBLISHED APPLICATION, IN THE DRAWINGS DATED AUGUST 2, 2002, SHEET 3/9, FIGURE 3a, TAG "ZA")

In Fig. 3a, Sheet 3 of 9, for Tag "ZB", delete "H.323 EP-B1" and
insert - - H.323 EP-B_1 - -, therefor.
(INTERNATIONAL PUBLISHED APPLICATION, IN THE DRAWINGS DATED AUGUST 2, 2002, SHEET 3/9, FIGURE 3a, TAG "ZB")

In Fig. 3a, Sheet 3 of 9, for Tag "ZB", delete "H.323 EP-B2" and
insert - - H.323 EP-B_2 - -, therefor.
(INTERNATIONAL PUBLISHED APPLICATION, IN THE DRAWINGS DATED AUGUST 2, 2002, SHEET 3/9, FIGURE 3a, TAG "ZB")

In Fig. 10a, Sheet 8 of 9, Line 12, delete "CryptoH323Token" and
insert - - CryptoH.323Token - -, therefor.
(INTERNATIONAL PUBLISHED APPLICATION, IN THE DRAWINGS DATED AUGUST 2, 2002, SHEET 8/9, FIGURE 10a, LINE 12)

In Fig. 10b, Sheet 8 of 9, Line 12, delete "CryptoH323Token" and insert - - CryptoH.323Token - -, therefor.
(INTERNATIONAL PUBLISHED APPLICATION, IN THE DRAWINGS DATED AUGUST 2, 2002, SHEET 8/9, FIGURE 10b, LINE 12)

In Column 2, Line 54, delete "G-B." and insert - - GW-B. - -, therefor.
(INTERNATIONAL PUBLISHED APPLICATION, IN THE SPECIFICATION DATED AUGUST 2, 2002, PAGE 4, LINE 23)

In Column 3, Line 15, delete "CK-A" and insert - - GK-A - -, therefor.
(INTERNATIONAL PUBLISHED APPLICATION, IN THE SPECIFICATION DATED AUGUST 2, 2002, PAGE 5, LINE 19)

In Column 4, Line 14, delete "the_Transport" and insert - - the Transport - -, therefor.
(INTERNATIONAL PUBLISHED APPLICATION, IN THE SPECIFICATION DATED AUGUST 2, 2002, PAGE 7, LINES 23-24)

In Column 4, Line 28, delete "G-A," and insert - - GK-A, - -, therefor.
(INTERNATIONAL PUBLISHED APPLICATION, IN THE SPECIFICATION DATED AUGUST 2, 2002, PAGE 8, LINE 11)

In Column 4, Line 38, delete "GB-B" and insert - - GK-B - -, therefor.
(INTERNATIONAL PUBLISHED APPLICATION, IN THE SPECIFICATION DATED AUGUST 2, 2002, PAGE 8, LINE 19)

In Column 6, Line 28, delete "h.323" and insert - - H.323 - -, therefor.
(INTERNATIONAL PUBLISHED APPLICATION, IN THE SPECIFICATION DATED AUGUST 2, 2002, PAGE 11A, LINE 20)

In Column 6, Line 36, delete "h.323" and insert - - H.323 - -, therefor.
(INTERNATIONAL PUBLISHED APPLICATION, IN THE SPECIFICATION DATED AUGUST 2, 2002, PAGE 11A, LINE 28)

In Column 8, Line 57, delete "(claim 23)" and insert - - (claim 24) - -, therefor.
(INTERNATIONAL PUBLISHED APPLICATION, IN THE SPECIFICATION DATED AUGUST 2, 2002, PAGE 16, LINE 21)

In Column 11, Line 22, delete "H.323" and insert - - H.323; - -, therefor.
(INTERNATIONAL PUBLISHED APPLICATION, IN THE SPECIFICATION DATED AUGUST 2, 2002, PAGE 22, LINE 7)

In Column 11, Lines 22-23, delete "10b standard modified in .....the invention;" and insert - - Fig. 10b standard modified in .....the invention; - -, therefor on Line 23.
(INTERNATIONAL PUBLISHED APPLICATION, IN THE SPECIFICATION DATED AUGUST 2, 2002, PAGE 22, LINE 8)

In Column 12, Line 65, delete "indentifier" and insert - - identifier - -, therefor.
(INTERNATIONAL PUBLISHED APPLICATION, IN THE SPECIFICATION DATED AUGUST 2, 2002, PAGE 25, LINE 27)

In Column 15, Line 19, delete "and_859," and insert - - and 859, - -, therefor.
(INTERNATIONAL PUBLISHED APPLICATION, IN THE SPECIFICATION DATED AUGUST 2, 2002, PAGE 30, LINES 19-20)

In Column 15, Line 30, delete "preferred_example." and
insert - - preferred example. - -, therefor.
(INTERNATIONAL PUBLISHED APPLICATION, IN THE SPECIFICATION DATED AUGUST 2, 2002, PAGE 30, LINES 30-31)

In Column 15, Line 53, delete "belongs to "PN1"" and
insert - - "belongs to PN1" - -, therefor.
(INTERNATIONAL PUBLISHED APPLICATION, IN THE SPECIFICATION DATED AUGUST 2, 2002, PAGE 31, LINE 22)

In Column 17, Line 45, delete "GK-1," and insert - - GK-2, - -, therefor.
(INTERNATIONAL PUBLISHED APPLICATION, IN THE SPECIFICATION DATED AUGUST 2, 2002, PAGE 35, LINE 13)

In Column 19, Line 21, delete "nonStandardData" and
insert - - NonStandardData - -, therefor.
(INTERNATIONAL PUBLISHED APPLICATION, IN THE SPECIFICATION DATED AUGUST 2, 2002, PAGE 38, LINE 24)

In Column 19, Lines 24-25, delete "nonStandardData" and
insert - - NonStandardData - -, therefor.
(INTERNATIONAL PUBLISHED APPLICATION, IN THE SPECIFICATION DATED AUGUST 2, 2002, PAGE 38, LINE 27)

In Column 20, Line 10, delete "INIT1" and insert - - INET1 - -, therefor.
(INTERNATIONAL PUBLISHED APPLICATION, IN THE SPECIFICATION DATED AUGUST 2, 2002, PAGE 40, LINE 16)

In Column 21, Line 51, delete "a_given" and insert - - a given - -, therefor.
(INTERNATIONAL PUBLISHED APPLICATION, IN THE SPECIFICATION DATED AUGUST 2, 2002, PAGE 43, LINE 27)

In Column 22, Line 50, delete "circuit_networks" and
insert - - circuit networks - -, therefor.
(INTERNATIONAL PUBLISHED APPLICATION, IN THE SPECIFICATION DATED AUGUST 2, 2002, PAGE 45, LINES 29-30)

In Column 28, Line 34, in Claim 8, delete "(GPQ)" and insert - - (GRQ) - -, therefor.
(AMENDMENTS TO THE CLAIMS DATED SEPTEMBER 4, 2007, PAGE 4 OF 12, CLAIM 8, LINE 4)

In Column 28, Line 47, in Claim 9, delete "(RASTA. RA" and insert - - (RASTA, RA - -, therefor.
(AMENDMENTS TO THE CLAIMS DATED SEPTEMBER 4, 2007, PAGE 5 OF 12, CLAIM 9, LINE 6)

In Column 29, Line 30, in Claim 13, delete "A" and insert - - The - -, therefor.
(AMENDMENTS TO THE CLAIMS DATED SEPTEMBER 4, 2007, PAGE 6 OF 12, CLAIM 12, LINE 1)

In Column 29, Line 59, in Claim 15, delete "(EP-B2)" and insert - - ($EP\text{-}B_2$) - -, therefor.
(AMENDMENTS TO THE CLAIMS DATED SEPTEMBER 4, 2007, PAGE 7 OF 12, CLAIM 14, LINES 5-6)

In Column 30, Line 34, in Claim 18, delete "(VOICE. INET2)" and insert - - (VOICE, INET2) - -, therefor.
(AMENDMENTS TO THE CLAIMS DATED SEPTEMBER 4, 2007, PAGE 8 OF 12, CLAIM 17, LINE 8)

In Column 30, Line 35, in Claim 18, delete "(EP-B2)" and insert - - ($EP\text{-}B_2$) - -, therefor.
(AMENDMENTS TO THE CLAIMS DATED SEPTEMBER 4, 2007, PAGE 8 OF 12, CLAIM 17, LINE 10)

In Column 31, Line 8, in Claim 22, delete "(ZA,. ZB" and insert - - (ZA, ZB - -, therefor.
(AMENDMENTS TO THE CLAIMS DATED SEPTEMBER 4, 2007, PAGE 9 OF 12, CLAIM 23, LINE 2)

In Column 31, Line 25, in Claim 22, delete "(GRQ. GCF" and insert - - (GRQ, GCF - -, therefor.
(AMENDMENTS TO THE CLAIMS DATED SEPTEMBER 4, 2007, PAGE 9 OF 12, CLAIM 23, LINE 15)

The requested corrections are attached on Form PTO 1050.

Respectfully Submitted

, 2008

/SIDNEY L. WEATHERFORD,Reg#45602/

DATE

Sidney L. Weatherford
Registration No. 45602
Attorney of Record

20 JAN 2004

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Klarquist Sparkman LLP
One World Trade Center, Suite 1600
121 S.W. Salmon Street
Portland, OR 97204

In re Application of	:	
TREMPY, Janine E. et al.	:	
Application No.: 10/182,960	:	DECISION
PCT No.: PCT/US01/03404	:	
Int. Filing Date: 02 February 2001	:	ON PETITION UNDER
Priority Date: 02 February 2000	:	
Docket No.: 245-64376	:	37 CFR 1.10(d)
For: BIOPOLYMER THICKENER	:	

This decision is in response to applicants' "Request For Corrected Notice of Acceptance" filed 14 October 2002.

BACKGROUND

On 02 February 2001, applicant filed international application PCT/US01/03404, which claimed a priority date of 02 February 2000. On 29 August 2001, applicant timely filed a demand for international preliminary examination. Accordingly, the thirty month period for paying the basic national fee expired at midnight on 02 August 2002.

Applicant filed a transmittal letter for entry into the national stage in the United States, accompanied by, *inter alia*, the basic national fee. It was accorded a filing date of 03 August 2002.

On 01 October 2002, the Office mailed Notice of Acceptance (Form PCT/DO/EO/903) granting the application a 371 date of 03 August 2002.

On 14 October 2002, applicant filed "Request For Corrected Notice of Acceptance," accompanied by a copy of the transmittal letter and Express Mail tracking information from USPS.

On 14 January 2003, applicant filed "Second Request For Corrected Official Filing Receipt" accompanied by, *inter alia*, a post card receipt and Express Mail tracking information from USPS.

On 01 August 2003, applicant submitted a third petition to correct the filing date.

DISCUSSION

In the instant petition, applicant requests that the receipt date be amended to 02 August 2002. The Express Mail mailing label lists the "date in" as 03 August 2002.

Applicant argues that the application was submitted to the USPS on 02 August 2002. 37 CFR § 1.10(d) allows an applicant to petition to correct an incorrectly entered "Date In" of an Express Mail receipt and states that:

> (d) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the"date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

Applicant has satisfied items (1), (2) and (3). The petition was filed promptly and the papers in the file reflect the mailing label number. Applicant has furnished a print out from USPS track and confirm database indicating the package was accepted by USPS on 02 August 2002.

Applicant also requests a corrected filing receipt reflecting a 02 August 2002 date and benefit claims to provisional application nos.60/179,888 and 60/241,098. The "filing date" on the filing receipt of a national stage application is the date upon which applicant completes the requirements under 35 U.S.C. §371(c). MPEP §1895.01 (A) (February 2003). Those requirements were satisfied on 02 August 2002.

As to the benefit claim to the provisional applications, it is noted that proper reference to the provisional applications in accordance with 35 USC §119(e) and 37 CFR 1.78(a) was timely submitted in the preliminary amendment filed 03 August 2002. However, the preliminary amendment which was filed after the filing date fo the application, i.e. 02 February 2001 under 35 USC 363, includes an incorporation by reference statement. Applicant should consider MPEP §201.11(F), which states,

> If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim after the filing date of the application, the amendment

would not be proper. When a benefit claim is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference of the prior application. See *Dart indus v. Nanner*, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980).

CONCLUSION

For the reasons listed above, applicant's petition under 37 CFR 1.10(d) to correct the date of receipt of the papers for entry into the national stage in the United States to 02 August 2002 is **GRANTED**.

The request for a filing receipt reflecting a 02 August 2002 filing date is **GRANTED**.

The Notification of Acceptance mailed 01 October 2002 is **VACATED**.

This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing, in accordance with this decision, including issuance of a Notification of Acceptance (Form PCT/DO/EO/903) indicating that the requirements under 35 U.S.C. §371 were satisfied on **02 August 2002** and that the application has a priority date of 02 February 2000. Additionally, the filing receipt should indicate that the application claims benefit of 60/179,888 filed 02 February 2000 and 60/241,098 filed 16 October 2000.

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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Robert M Bain
Paul J Fleischut
Senniger Powers Leavitt & Roedel
One Metropolitan Square 16th Floor
St Louis MO 63012

In re Application of	:	
TOLLS	:	
Application No.: 10/182,969	:	DECISION ON PAPERS
PCT No.: PCT/US01/00654	:	
Int. Filing Date: 26 January 2001	:	UNDER 37 CFR 1.42
Priority Date: 02 February 2000	:	
Attorney Docket No.: CEDE 2051.3	:	
For: PLATING SYSTEM FOR DECORATIVE COATINGS	:	

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 (DO/EO/US)" filed 22 November 2002. The indication that inventor Elmar Tolls is deceased has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 26 January 2001, applicant filed international application PCT/US01/00654, which claimed a priority date of 02 February 2000. 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 for international preliminary examination, in which the United States was elected, was filed on 31 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 02 August 2002.

On 02 August 2002, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee and an unexecuted declaration of the inventor.

On 02 October 2001, the United States Patent and Trademark Office (USPTO) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE U.S. DESIGNATED/ELECTED OFFICE (DO/EO/US) (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 under 37 CFR 1.492(e) were required. The NOTIFICATION set a two-month extendable time period for reply.

On 22 November 2002, applicants filed the instant "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)". The submission was accompanied by a declaration signed by Hiltrud Tolls as "legal representative" of deceased inventor Elmar Tolls and lists the residence, citizenship and mailing address of both Hiltrud Tolls and Elmar Tolls. The surcharge under 37 CFR 1.492(e) was also provided.

DISCUSSION

The submission filed 22 November 2002 has been reviewed and has been found in compliance with 37 CFR 1.42 and 37 CFR 1.497(a)-(b).

CONCLUSION

The papers filed under 37 CFR 1.42 on 22 November 2002 are **ACCEPTED**.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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 according the application a 35 U.S.C. 371(c) date of **22 November 2002**.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066
Facsimile: (703) 308-6459

03 AUG 2005

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In re Application of:
SORENSEN et al
U.S. Application No.: 10/182,978
PCT No.: PCT/US01/03502
International Filing Date: 02 Feb. 2001
Priority Date: 02 Feb 2000
Attorney's Docket No.: MGH-003AUS
For: METHOD FOR EVALUATING NOVEL, STROKE TREATMENTS

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

This decision is in response to the "Petition to Accept Unintentionally Delayed Priority Claim" filed 24 February 2003, and resubmitted on 21 March 2005, seeking to add a delayed priority claim to international application PCT/US01/03502 pursuant to 37 CFR 1.78(a)(3). The petition is **DISMISSED as MOOT**.

The instant application is the U.S. national stage of international application PCT/US01/03502. See "Notification of Acceptance of Application under 35 U.S.C. 371" and 37 CFR 1.495" mailed 08 May 2003. As such, international application PCT/US01/03502 is not a "previously filed" application, but rather is the same application. The actual filing date of a U.S. national stage application is its international filing date. See 35 U.S.C. 363. Accordingly, a benefit claim under 35 U.S.C. 120 to the international application is improper. See MPEP 1893.03(c), which states:

> *...[A] national stage application submitted under 35 U.S.C. 371 may not claim benefit of the filing date of the international application of which it is the national stage since its filing date is the date of filing of that international application. See also MPEP § 1893.03(b). Stated differently, since the international application is not an earlier application (it has the same filing date as the national stage), a benefit claim under 35 U.S.C. 120 in the national stage to the international application is inappropriate and may result in the submission being treated as an application filed under 35 U.S.C. 111(a). See MPEP § 1893.03(a). Accordingly, it is not necessary for the applicant to amend the first sentence of the specification to reference the international application number that was used to identify the application during international processing of the application by the international authorities prior to commencement of the national stage.*

CONCLUSION

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

The petition fee will be refunded to petitioner's deposit account in due course.

Any questions concerning this decision on petition may be directed to the undersigned. Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Boris Milef
PCT Legal Examiner
Office Of PCT Legal Administration
Telephone: (571) 272-3288
Facsimile: (571) 273-0459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **1/8/2007**

TO SPE OF : ART UNIT **1600 (1646)**

SUBJECT : Request for Certificate of Correction on Patent No.: 7,084,255

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 – 2900 South Tower ste.9A43A
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.

***ok to enter change of address for 2nd inventor as req. in COCIN in Madras?**

Thank You For Your Assistance

Ernest C. White, LIE (703) 308-9390x122
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:

_____

_____

_____

_____

_____

Gary Mueller
SPE

1646
Art Unit

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Paper No. 090204

EDWARD DREYFUS ESQ.
608 SHERWOOD PKWY.
MOUNTAINSIDE, NJ 07092

SEP 16 2004

In re Application of:
EDWARD LOPATINSKY et al.
Serial No.: 10/183,032
Filed: June 26, 2002
Attorney Docket No.: **ARS-110**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed June 17, 2004.

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

The request meets all the above stated requirements. The request was signed by Edward Dreyfus, on behalf of himself and all the attorneys/agents of record. There is at least thirty (30) days remaining 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.

The request is **APPROVED**.

There are no attorneys of record at this time.

All future communications from the Office will be directed to the inventor, Edward Lopatinsky, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Lissi Marquis at (571) 272-1596.

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

cc: EDWARD LOPATINSKY
ADVANCED ROTARY SYSTEMS, INC.
5450 COMPLEX STREET, SUITE 313
SAN DIEGO, CA 92123-1116

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OFFICE OF PETITIONS

In re Application of	:	
Lopatinsky et al.	:	
Application No. 10/183,032	:	ON PETITION
Filed: June 26, 2002	:	
Attorney Docket No. ARS-110	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 30, 2006, to revive the above-identified application.

The petition is **GRANTED.**

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

This matter is being referred to Technology Center 2800 for further examination on the merits.

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

Liana Chase
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5-20-09 Paper No.: _____

TO SPE OF : ART UNIT _____

SUBJECT : Request for Certificate of Correction for Appl. No. 10/183045 Patent No.: 7401003

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Should these drawings be entered?

E. James
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

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

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

Comments: Request for Certificate of Correction filed 05/12/2009 (replacement drawings) approved.

/Eliseo Ramos-Feliciano/
Supervisory Patent Examiner — Art Unit 2857

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

SIDLEY AUSTIN BROWN & WOOD LLP
555 West Fifth Street
Los Angeles CA 90013-1010

COPY MAILED

DEC 0 2 2002

OFFICE OF PETITIONS

In re Application of
Mark DuVall and Alan Gilbert
Application No. 10/183,06[redacted]
Filed: June 26, 2002
Attorney Docket No. 022719-0037

DECISION ACCORDING
STATUS UNDER
RULE 47(b)

This is in response to the petition under 37 CFR 1.47(b), filed October 7, 2002.

The petition is **GRANTED**.

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

A "Notice to File Missing Parts of Non-Provisional Application" ("Notice") was mailed to petitioner on August 2, 2002, indicating that petitioner neglected to file a proper oath or declaration in compliance with 37 CFR 1.63. The Notice also advised petitioner that a $65.00 surcharge was also due because a proper oath or declaration was not timely filed. The Notice set forth a period of reply of two months from its mailing date and indicated that extensions of time for reply were available pursuant to 37 CFR 1.136(a).

In response thereto, petitioner filed the instant petition. Petitioner also filed several accompanying exhibits through which petitioner established that although the inventors DuVall and Gilbert were presented with a complete copy of the application papers, the inventors have, to date, failed to execute the same. Inventors DuVall and Gilbert's failure to return the declaration, in spite of his presumed receipt of the same, will be interpreted as constructive refusal to join the prosecution of the application.

Petitioner has shown that the non-signing inventor has refused to join the filing of the above-identified application after having been presented with the application papers, and the above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

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

Pursuant to the authorization provided by petitioner, Deposit Account 50-1597 was charged $130.00 for the petition fee and $65.00 for the late surcharge fee.

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

Telephone inquiries concerning this decision should be directed to Gregory J. Toatley, Jr. at (703) 305-4066 or to the undersigned at (703) 305-0010.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LETTER

Mark DuVall
18030 Haas Avenue
Torrence, California 90505

Alan Gilbert
5521 118th Place
Inglewood, California 90304

COPY MAILED

DEC 0 2 2002

OFFICE OF PETITIONS

In re Application of
Mark DuVall and Alan Gilbert
Application No. 10/183,068
Filed: June 26, 2002
Attorney Docket No 022719-0037

Dear Misters DuVall and Gilbert:

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

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

Telephone inquiries concerning this communication should be directed to Gregory J. Toatley, Jr. at (703) 305-4066 or to the undersigned at (703) 305-0010. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington, DC area).

K. A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner

for Patent Examination Policy

cc: SIDLEY AUSTIN BROWN & WOOD LLP
555 West Fifth Street
Los Angeles CA 90013-1010

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 19

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

COPY MAILED

APR 0 6 2004

OFFICE OF PETITIONS

In re Application of :
Michael R. Tracey et al :
Application No. 10/183,082 : DECISION GRANTING PETITION
Filed: June 27, 2002 : UNDER 37 CFR 313(c)(2)
Attorney Docket No. GYN-119 :

This is a decision on the petition, filed April 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 February 9, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 3736 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Heller Ehrman LLP
4350 La Jolla Village Drive
7th Floor
San Diego, CA 92122

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AUG 13 2008

In re Application of	:	
Jens-Ulrich Buelow	:	
Application No. 10/183,093	:	DECISION ON PETITION
Filed: June 26, 2002	:	TO WITHDRAW
Attorney Docket No. 13838Z	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 10, 2008.

The request is **APPROVED**.

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

The request was signed by Leslie B. Overman on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Jens-Ulrich Buelow**
Flughafenstrasse 19
Karsruhe, 76140
Germany

cc: **Goodwin Procter LLP**
Attn: Patent Administrator
135 Commonwealth Drive
Menlo Park, CA 94025-1105

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
10/183,093	06/26/2002	Jens-Ulrich Buelow	13838Z

CONFIRMATION NO. 5834

POWER OF ATTORNEY NOTICE

25213
HELLER EHRMAN LLP
4350 La Jolla Village Drive, 7th Floor
San Diego, CA 92122

OC000000031535026

Date Mailed: 08/12/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/10/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tswilliams/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK, CA 94025

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AUG 1 1 2008

OFFICE OF PETITIONS

In re Application of :
CRAWFORD, et al. :
Application No. 10/183,135 : DECISION ON PETITION
Filed: June 25, 2002 : TO WITHDRAW
Attorney Docket No. 35006-544004US : 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 1, 2008.

The request is DISMISSED as moot.

A review of the file record indicates that the power of attorney to GLENN PATENT GROUP has been revoked by the assignee of the patent application on June 3, 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 the undersigned at 571-272- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO, PC
ATTN: PATENT INTAKE CUSTOMER NO. 76615
ONE FINANCIAL CENTER
BOSTON, MA 02111

UNITED STATES PATENT AND TRADEMARK OFFICE

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Michael E. Milz
BRINKS HOFER GILSON & LIONE
P.O. Box 10395
Chicago, IL 60610

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MAY 31 2007

OFFICE OF PETITIONS

In re Patent No.7,095,586 :
Gotoh, et al. : DECISION ON REQUEST
Issue Date : August 22, 2006 : FOR RECONSIDERATION
Application No. 10/183,199 : OF PATENT TERM
Filed: June 27, 2002 : ADJUSTMENT
Attorney Docket No. 9281/4320 :

This is a decision on the "Petition for Reconsideration of Patent Term Adjustment," filed October 26, 2006 (certificate of mailing dated Monday, October 23, 2006). Patentees request that the patent term adjustment indicated on the face of the Letters of Patent be corrected from two-hundred sixty-three days (263) days to four-hundred twenty-one days (421).

The request for reconsideration of the patent term adjustment under 37 CFR 1.705(d) is **DISMISSED**.

Patentee's are given TWO (2) MONTHS from the mail date of this decision to respond. No extension of time will be granted under 37 CFR 1.136.

On August 22, 2006, the above-identified application matured into U.S. Patent No. 7,095,586, with a revised patent term of 263 days. The instant request for reconsideration filed October 26, 2006, was timely filed within two months of the date the patent issued. See § 1.705(d). Patentees assert that an additional period of adjustment should have been entered for the Office taking in excess of three years to issue the patent.

It is agreed that the instant patent issued 3 years and 421 days after its filing date. However, § 1.703(b)(1) provides, in pertinent part, that:

> The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) . . . and ending on the date a patent was issued, but not including the sum of the following periods:
>
> (1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Thus, the filing of a request for continued Examination (RCE) cuts-off the applicants' ability to accumulate any additional patent term adjustment against the three-year pendency provision, but does not otherwise affect patent term adjustment. In this instance, an RCE was filed on June 13, 2005. Thus, the ability to accumulate any additional patent term adjustment against the three-year pendency provision ended June 12, 2005. Applicant is not entitled to any additional patent term adjustment because the RCE was filed before the expiration of the three-year pendency of the application.

In view thereof, the patent term adjustment of 263 days indicated in the patent is correct.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

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

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

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

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

Telephone inquiries regarding this decision may directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
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Himanshu S. Amin
AMIN & TUROCY, LLP
24th Floor, National City Center
1900 East 9th Street
Cleveland OH 44114

COPY MAILED

FEB 17 2006

OFFICE OF PETITIONS

In re Application of
Brill, et al.
Application No.: 10/183,214
Filed: June 27, 2002
Attorney Docket No.: 4366-68
FOR: AUTOMATED ERROR CHECKING SYSTEM AND METHOD

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed on September 29, 2005.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **GRANTED**.

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed November 10, 2004, which set a period for reply of three (3) months. Having received no extensions of time under 37 CFR 1.136(a) and having received no reply, the Office considered the application abandoned on February 11, 2005. A Notice of Abandonment was mailed on September 23, 2005.

Petitioners allege that the November 10, 2004 non-final Office action was not received at the proper correspondence address of record and therefore, the application is not really abandoned. The undersigned finds this assertion completely convincing because the Office action in question was mailed to an incorrect address. The record shows that a change in address intended for application no. 09/183,214 was erroneously entered into the above-identified application's file. This mistake resulted in the November 10, 2004 non-final Office action being mailed to the wrong address.

The petition under 37 CFR 1.181 is granted. The holding of abandonment is withdrawn. No petition fee has been or will be charged in connection with this matter.

After the mailing of this decision, the application will be returned to Technology Center AU 2167 for the re-mailing of the November 10, 2004 Office action with a new period for response.

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/9/06

TO SPE OF : ART UNIT 3654

SUBJECT : Request for Certificate of Correction for Appl. No.: 10183232 Patent No.: 6929208

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**.

Valeri 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: _____

Kathy Matecki

SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600
KATHY MATECKI

3654
SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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FEB 27 2008

OFFICE OF PETITIONS

In re Application of
Matthew Wayne Gertz et al.
Application No. 10/183,259
Filed: June 26, 2002
Attorney Docket No. MSFT-1254/300555.1

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1], filed September 27, 2007 to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned January 5, 2007 for failure to timely reply to the final Office Action mailed October 4, 2006, which set a three month period for response. Accordingly, a Notice of Abandonment was mailed April 30, 2007.

Petitioner has submitted a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

This matter is being referred to Technology Center 2117 for processing of the RCE.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

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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COOK ALEX McFARRON MANZO
CUMMINGS & MEHLER LTD.
200 WEST ADAMS STREET, SUITE 2850
CHICAGO, IL 60606

COPY MAILED

FEB 1 0 2005

OFFICE OF PETITIONS

In re Application of :
Shunpei Yamazaki :
Application No. 10/183,282 : DECISION GRANTING PETITION
Filed: June 27, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0553-0326 :

This is a decision on the petition, filed February 8, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 18, 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 2812 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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COOK ALEX McFARRON MANZO
CUMMINGS & MEHLER, LTD.
200 WEST ADAMS STREET, SUITE 2850
CHICAGO, IL 60606

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NOV 0 2 2005

OFFICE OF PETITIONS

In re Application of :
Shunpei Yamazaki :
Application No. 10/183,282 : DECISION GRANTING PETITION
Filed: June 27, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0553-0326 :

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 October 28, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2812 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

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

OIPE JC106
AUG 1 2 2002
PATENT & TRADEMARK OFFICE

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/183,287	06/27/2002	James Knapp	ONS00383

CONFIRMATION NO. 9485

FORMALITIES LETTER

OC000000008544571

James J. Stipanuk
Semiconductor Components Industries, L.L.C.
Patent Administration Dept - MD/A700
P. O. Box 62890
Phoenix, AZ 85082-2890

Date Mailed: 07/31/2002

NOTICE TO FILE CORRECTED APPLICATION PAPERS

Filing Date Granted

This application has been accorded an Application Number and Filing Date. The application, however, is informal since it does not comply with the regulations for the reason(s) indicated below. Applicant is given **TWO MONTHS** from the date of this Notice within which to correct the informalities indicated below. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a)

The required item(s) identified below must be timely submitted to avoid abandonment:

- Substitute drawings in compliance with 37 CFR 1.84 because:
  - drawing sheets do not have the appropriate margin(s) (see 37 CFR 1.84(g)). Each sheet must include a top margin of at least 2.5 cm. (1 inch), a left side margin of at least 2.5 cm. (1 inch), a right side margin of at least 1.5 cm. (5/8 inch), and a bottom margin of at least 1.0 cm. (3/8 inch);

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

Mulvemebet Libret
Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

OIPE JC106
AUG 1 2 2002
PATENT & TRADEMARK OFFICE

03C01

#4.

ONS00383

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: : Date: 8/6/2002

James Knapp et al : Group: 2841

APPLN. NO. 10/183287 : ATTN: Customer Service Center
Initial Patent Examination Division

FILED: 6/27/2002 :

FOR: INTEGRATED CIRCUIT & LAMINATED LEADFRAME PACKAGE

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO: COMMISSIONER OF PATENTS AND TRADEMARKS WASHINGTON, D.C. 20231, ON: August 8, 2002
Date of Deposit

Lydia McNamara SEMICONDUCTOR COMPONENTS INDUSTRIES, L.L.C.
Name of Person Signing Certificate Name of Assignee

Lydia McNamara 8/8/02
SIGNATURE DATE

RESPONSE TO FORMALITIES LETTER: NOTICE TO FILE CORRECTED APPLICATION PAPERS

SUBMITTAL OF FORMAL DRAWINGS

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

Attn: Official Draftsperson

SIR:

Enclosed are four (4) sheets of formal drawings for the above-identified patent application together with a copy (Part 2) of the above Notice.

Respectfully submitted,
James Knapp et al

James J. Stipanuk
Attorney of Record
Reg. No. 44,358
Tel. (602) 244-4885
Fax: (602) 244-3169

Attn; Lydia McNamara
ON Semiconductor
Law Dept./MD A700
P.O. Box 62890
Phoenix, AZ 85082-2890

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MAR 31 2004

Audley A. Ciamporcero Jr.
Johnson & Johnson
One Johnson & Johnson
New Brunswick, NJ 08933-7003

Paper No.

In re Application of	:	DECISION ON PETITION
Michael R. Tracey	:	TO WITHDRAW
Serial No. : 10/183,298	:	HOLDING OF
Filed : June 27, 2002	:	ABANDONMENT
For : A System and Method for Assessing Urinary Function:		

This is a decision on petitioner's request filed August 25, 2003, to review the holding of abandonment mailed July 24, 2003 for failure to pay the issue fee as required in the Notice of Allowance and Fee(s) Due mailed March 24, 2003. There is no fee required for this petition.

In support of the request, petitioner has submitted a copy of a response that included a Request for Continued Examination (RCE), the appropriate fees and an IDS as the submission required under 37 CFR 1.114. Included with the request was a copy of a PTO stamped receipt indicating that the aforementioned items were received May 19, 2003.

The papers received May 19, 2003 were matched with the instant file after the Notice Of Abandonment was mailed. As the papers were timely filed and constituted a proper RCE request, the holding of abandonment was in error and was withdrawn. However, no Official notification of the withdrawal of the abandonment was given to applicant or entered in the file. Further, the petition requesting withdrawal of the holding of abandonment was only recently matched with the file. Thus, this decision, *nunc pro tunc*, withdraws the holding of abandonment.

It is noted that a new RCE request was filed October 2, 2003 and requests that an IDS filed July 28, 2003 be considered as the submission under 37 CFR 1.114. A review of the file failed to uncover the July 28, 2003 IDS. Thus, the copy of the IDS mailed July 28, 2003 provided with the RCE request filed October 2, 2003 will be used. Upon the mailing of this decision, the application will be forwarded to the Examiner via the Legal Instruments Examiner for entry, processing and consideration of the RCE filed October 2, 2003.

Summary: Holding of Abandonment Withdrawn.

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

ak/3/13/04

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PHILIP S. JOHNSON
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ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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SEP 0 1 2004

OFFICE OF PETITIONS

In re Application of :
Michael R. Tracey :
Application No. 10/183,298 : ON PETITION
Filed: June 27, 2002 :
Attorney Docket No. GYN0120

This is a decision on the petition, filed August 31, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 28, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The file will be forwarded to Technology Center AU 3736 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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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/946,135	10/07/1997	ERIC W. MCFARLAND	~~16703-11~~ 1012-007	3464

7590 03/19/2002

Eric M. Dobrusin, Esq.
Dobrusin, Darden, Thennisch Law Firm PLLC
401 S. Old Woodward Avenue, Suite 311
Birmingham, MI 48009

OIPE JC100 AUG 26 2002 PATENT & TRADEMARK OFFICE

EXAMINER	
SODERQUIST, ARLEN	
ART UNIT	PAPER NUMBER
1743	

DATE MAILED: 03/19/2002

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

Received
MAR 25 2002
Dobrusin & Thennisch, P.C.

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

OIPE JC100 AUG 26 2002 PATENT & TRADEMARK OFFICE

MAILED: March 11, 2002

Paper No. 32

In re Application of
Eric McFarland, et al.
Serial No. 08/946,135
Filed: October 7, 1997
For: INFRARED SPECTROSCOPIC IMAGING OF LIBRARIES

DECISION ON PETITION

This is a decision on the petition filed October 7, 1997, requesting the acceptance of color photographs into the above-identified application.

On October 7, 1997, formal drawings, the present petition and authorization to charge the $130.00 petition fee to the deposit account of petitioners' representative were filed. Petitioners request that color photographs be accepted in order to fulfill the requirement for formal drawings. Petitioners argue that the pictures are of stained biological cells and that color photos are necessary to see the proper staining of the cells. In support of the petition, three (3) copies of the color photographs and an amendment to the specification, were filed.

37 CFR § 1.84(b)(2) states that color photographs will be accepted in utility patent applications only after granting a petition explaining why the color photographs are necessary. The petition must include the following:

(i) The appropriate fee set forth in § 1.17(h);

(ii) Three (3) sets of color drawings; and

(iii) The specification must 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."

A review of the record reveals that petitioners have fulfilled the requirements of 37 CFR 1.84. The petition is granted. The color photographs have been accepted and will be forwarded to the Official Draftsperson for formal review.

PETITION GRANTED

Jill Warden
Supervisory Patent Examiner
Group Art Unit 1743

Eric M. Dobrusin
Dobrusin & Thennisch PC
401 S. Old Woodward Avenue
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Birmingham, Michigan 48009

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Donald W. Meeker
750 La Playa, #512
San Francisco CA 94141

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MAY 23 2005

OFFICE OF PETITIONS

In re Application of :
Nordberg :
Application No. 10/183,316 : ON PETITION
Filed: June 25, 2002 :
Attorney Docket No. NORDBERG :
For: FULL DRAW HANDS-FREE BOW RANGE FINDER

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

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The above-identified application became abandoned for failure to reply in a timely manner to the July 24, 2003 non-final Office action which set an extendable three (3) month period for reply. No extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on October 25, 2003. A Notice of Abandonment was mailed on March 23, 2004.

Applicant has submitted an amendment in reply to the July 24, 2003 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the July 24, 2003 non-final Office action, and the petition fee.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center G.A.U. 2859's technical support staff for entry of the amendment filed on February 14, 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

cc: DONALD W. MEEKER
924 EAST OCEAN FRONT, #E
NEWPORT BEACH, CA 92661

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MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

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NOV 30 2009

OFFICE OF PETITIONS

In re Application of :
Marcin Sawicki, et al. :
Application No.: 10/183,317 : ON PETITION
Filed: June 25, 2002 :
Attorney Docket No.: 50037.0121US01/300447.01 :

This is a decision on the petition, filed November 27, 2009, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 16, 2009, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The application is being referred to Technology Center AU 2194 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

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.*

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MATTINGLY STANGER & MALUR PC
ATTORNEYS AT LAW
1800 DIAGONAL ROAD, SUITE 370
ALEXANDRIA, VA 22314

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JUN 13 2005

OFFICE OF PETITIONS

In re Application of :
Harumi Wakana et al :
Application No. 10/183,358 : DECISION ON PETITION
Filed: June 28, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. NIP-114-03 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 15, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 08/991,608, filed December 16, 1997.

The petition is **DISMISSED**.

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

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

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

The amendment to add a reference to the above-noted, prior-filed nonprovisional application as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the amendment is physically part of the instant petition and, as such,

does not comply with 37 CFR 1.121, 1.52, or 1.4(c). 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

Additionally, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

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

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a renewed petition under 37 CFR 1.78(a)(3), along with a substitute amendment correcting the above deficiencies, is required. No additional petition fee is required.

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

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
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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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ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of :
Harumi Wakana et al :
Application No. 10/183,358 : DECISION ON PETITION
Filed: June 28, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. NIP-114-03 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed June 28, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 08/991,608, filed December 16, 1997.

The petition is **DISMISSED**.

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

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

The petition satisfies items (1) through (3) above. However, because the instant application has now issued into a patent, a Certificate of Correction and fee therefor must be submitted to reflect the claim for priority on the front page of the patent. Accordingly, any renewed petition under 37 CFR 1.78(a)(3) must now be accompanied by a Certificate of Correction and fee. *Note* MPEP 1481.

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ATTORNEYS AT LAW
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ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of	:
Harumi Wakana et al	:
Application No. 10/183,358	: DECISION ON PETITION
Filed: June 28, 2002	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. NIP-114-03	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed November 29, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 08/991,608, filed December 16, 1997.

The petition is **GRANTED**.

The present 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). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

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

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

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

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

The petition complies with the above requirements.

The decision mailed October 5, 2005 stated that the petition filed June 28, 2005 could not be granted until a certificate of correction (and fee therefor) were submitted in view of the issuance of the application into a patent on July 26, 2005. However, as pointed out in the renewed petition of November 29, 2005, the above-noted claim for priority to nonprovisional Application No. 08/991,608 was printed on the front page of the Letters Patent. Accordingly, it is not now necessary for petitioner to submit a certificate of correction. Accordingly, the requirement for a certificate of correction is withdrawn.

A corrected filing receipt accompanies this decision on petition.

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

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAIL

OCT 27 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

MARK C. COMTOIS
SUITE 700
1667 K STREET, N.W.
WASHINGTON DC 20006

In re Application of:
David C. Schafer
Application Serial No.: 10/183,361
Filed: June 28, 2002
For: **SYSTEM AND METHOD FOR MINIMIZING GUARD TIME IN A TIME DIVISION DUPLEX COMMUNICATION SYSTEM**

DECISION
ON PETITION

This is a decision on the petition filed September 23, 2005 under 37 CFR § 1.181 in regard to the Examiner's Refusal to enter an amendment after final Office action.

Petitioner states that the "examiner's refusal to admit Applicant's amendments was not in accordance with 37 C.F.R. 1.116 and was predicated upon an incorrect reading of the art...".

On the issue of incorrect reading of the art that the examiner misinterpreted Agarwal, see 37 CFR § 1.181(a):

37 CFR § 1.181(a) Petition may be taken to the Director, states:

(1) From any action or requirement of any examiner in the ex parte prosecution of an application, or in ex parte or inter partes prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;

(2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Director; and

(3) To invoke the supervisory authority of the Director in appropriate circumstances.

Thus, the correctness of the rejections under 35 USC 102 and 103 are not subject to review by Petition. These issues become appealable to the Board of Patent Appeals and Interferences as governed under 37 CFR 1.191.

On the issue of examiner's refusal to admit Applicant's amendment was not in accordance with 37 C.F.R. 1.116, a review of the file records reveal that a final Office action was mailed on May 10, 2005 wherein claims 1-3, 5, 7-14, 16-17, 19-26, 28-30, 32-43 and 45 were rejected over applied art and claims 4, 6, 15, 18, 27 and 31 were objected to as being dependent upon a rejected base claim.

On August 8, 2005, Applicant's filed an amendment after final Office action, requesting cancellation of claims 23, 44, 46 and 47 and amendment of claims 1-2, 4, 11-13, 15, 22, 24, 28 and 45, and presenting arguments against the applied rejections.

On September 2, 2005, an Advisory Action was mailed.

Petitioner did not argue the finality of the Office action mailed May 10, 2005 within the instant petition. Therefore, the final rejection was not premature.

MPEP §714.12 Amendments After Final Rejection or Action, states in part:

> Once a final rejection that is not premature has been entered in an application, applicant or patent owner no longer has any right to unrestricted further prosecution. This does not mean that no further amendment or argument will be considered. Any amendment that will place the application either in condition for allowance or in better form for appeal may be entered. Also, amendments complying with objections or requirements as to form are to be permitted after final action in accordance with 37 CFR 1.116(b). Ordinarily, amendments filed after the final action are not entered unless approved by the examiner. See MPEP § 706.07(f), § 714.13 and § 1207. [emphasis added]

37 CFR §1.116. Amendments after final action or appeal, states in part:

> (b) After a final rejection or other final action (§ 1.113) in an application or in an ex parte reexamination filed under § 1.510, or an action closing prosecution (§ 1.949) in an inter partes reexamination filed under § 1.913, amendments may be made canceling claims or complying with any requirement of form expressly set forth in a previous Office action. Amendments presenting rejected claims in better form for consideration on appeal may be admitted. The admission of, or refusal to admit, any amendment after a final rejection, a final action, an action closing prosecution, or any related proceedings will not operate to relieve the application or patent under reexamination from its condition as subject to appeal or to save the application from abandonment under § 1.135, or the reexamination from termination. No amendment can be made in an inter partes reexamination proceeding after the right of appeal notice under § 1.953 except as provided for in paragraph (d) of this section. [emphasis added]

The amendment filed August 8, 2005 did not cancel claims or amend claims as a result of examiner requirement. The proposed amendment did not place the application in condition for allowance. Thus the only question is whether or not the amendment places the application in better form for appeal.

Petitioner argued that the proposed amendment to claims 1, 12, 22 and 45 was to further prosecution. Upon review, newly proposed independent claims 1, 12 and 45 describe determining a time slot assignment, rather than determining a communication resource implementation. In addition, the newly proposed claim 22 includes limitation from dependent claim 23 with the additional limitation "hierarchical ordering". Claims 37-43 depend directly or indirectly from independent claim 22, rather than from dependent claim 23 as presented in the final Office action. Therefore, the proposed limitation is one which was newly presented to dependent claims 37-43, after the prosecution is closed. In conclusion, the proposed amendment is a new issue which has not been addressed with respect to newly added "time slot assignment", "hierarchical ordering", and also the change in scope of dependent claims 37-43, and thus did not place the application in better form for appeal. In accordance with 37 C.F.R. 1.116 and MPEP 714.12 above, the examiner was correct in denying the entry of amendment after final Office action filed August 8, 2005.

Accordingly, Applicant's petition to have the amendment after final entered is **DENIED**.

Petitioner is reminded that the statutory period continues to run from the mailing date of May 10, 2005 of the final Office action.

Jin F Ng, Director
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 7

Mark C. Comtoie
Duane Morris LLP
1667 K Street, N. W.
Suite 700
Washington, DC 20006

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APR 1 8 2003

OFFICE OF PETITIONS

In re Application of :
Nandini Shrinidhi, et al. :
Application No. 10/183,363 : ON PETITION
Filed: June 28, 2002 :
Attorney Docket No. HAR66 024 :

This is in response to the "Petition Under 37 CFR 1.47(a), filed December 2, 2002.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

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

Where inability to find or locate a named inventor(s) is alleged, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a *diligent effort* was made to locate the inventor. The statement(s) of fact 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.

The showing currently fails to demonstrate that a "diligent effort" was made to locate inventor Gennaro. In this regard, does petitioner have access to inventor Gennaro's employee records? If so, petitioner should indicate what an inspection of the records reveals as to a current address, forwarding address, or an address of the nearest living relative. What does inspection of the phone directories for those address locations reveal? Did any of Gennaro's co-workers keep in touch with him? At the very least, a search should be made of the telephone directories and an Internet search conducted. Copies of the results of the searches must be referred to in any renewed petition. See MPEP 409.03(d). If inventor Gennaro is located, then a complete copy of the application papers (specification, claims, drawings, oath, etc.) should be mailed to Mr. Gennaro's address, return receipt requested, along with a cover letter of instructions which includes a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to finding of refusal by conduct. If the papers are returned and all other attempts to locate or reach the inventor, e.g., through personnel records, co-workers, E-mail, the Internet or the telephone, etc., continue to fail, then applicant will have established that inventor Gennaro cannot be reached or has refused to join in the application. A person having firsthand knowledge of the facts recited therein must sign the statements of facts, where at all possible.

If inventor Gennaro is located and the inventor orally refuses to join in the application or where there is an express or oral refusal to execute the declaration, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. If, on the other hand, petitioner receives 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 Rule 47 applicant that an omitted inventor's conduct constitutes a refusal, all facts upon which that 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 must be submitted.

Whenever an omitted inventor gives reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

In order to expedite consideration of the petition under 37 CFR 1.47(a), petitioner may wish to consider submitting the renewed petition by facsimile transmission to the telephone number indicated below and to the attention of Marianne Morgan.

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

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

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

By HAND: 2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Telephone inquiries should be directed to Marianne Morgan at (703) 306-3475.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 11

Mark C. Comtois
Duane Morris LLP
1667 K Street, N. W.
Suite 700
Washington, DC 20006

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OCT 0 2 2003

OFFICE OF PETITIONS

In re Application of :
Nandini Shrinidhi, et al. :
Application No. 10/183,363 : ON PETITION
Filed: June 28, 2002 :
Attorney Docket No. HAR66 024 :

This is in response to the "Request for Reconsideration of Petition Under 37 CFR 1.47(a), filed August 18, 2003.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

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

Subsequent to the previous decision on petition, Mr. Gennaro, the non-signing inventor, has now been located. Petitioner herein alleges that Mr. Gennaro has not complied with the requests to sign the declaration and therefore, by his actions, is refusing to sign the declaration. Petitioner has attached a copy of several e-mail communications between petitioner and the non-signing inventor. Mr. Gennaro states in the e-mail communication dated July 29, 2003, "...anyways it will go out this week (if I have it)," which suggests that he is willing to join in the application.

Additionally, he mentions in the e-mail communication dated August 6, 2003, that he is unable to locate the package that was sent to him. Petitioner has provided evidence that another package was sent to him, but it is noted that the package was sent the same date the instant petition was filed. In view thereof, petitioner has not given Mr. Gennaro sufficient to time to return the papers to him. As such, it is premature to assume that he refuses to sign the oath or declaration.

As stated in the previous decision, if Mr. Gennaro orally refuses to join in the application or where there is an express or oral refusal to execute the declaration, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. If, on the other hand, petitioner receives an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration. If it is concluded by the Rule 47 applicant that Mr. Gennaro's conduct constitutes a refusal, all facts upon which that 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 must be submitted.

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

By mail:	U. S. Patent and Trademark Office P. O. Box 1450 Alexandria, VA 22313-1450
By FAX:	(703) 308-6916 Attn: Office of Petitions
By HAND:	2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202

Telephone inquiries should be directed to Marianne Morgan at (703) 306-3475.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 14

Mark C. Comtois
Duane Morris LLP
1667 K Street, N. W.
Suite 700
Washington, Dc 20006

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OCT 3 1 2003

OFFICE OF PETITIONS

In re Application of :
Nandini Shrinidhi, et al. : DECISION NOTING JOINDER OF
Application No. 10/183,363 : INVENTOR AND PETITION
Filed: June 28, 2002 : UNDER 37 CFR 1.47(a) MOOT
Attorney Docket No. HAR66 024 :

Papers filed on October 24, 2003 in response to a "Decision Refusing Status Under 37 CFR 1.47(a)" mailed October 2, 2003 included a Declaration signed by a previously non-signing inventor, Joe Gennaro, in compliance with 37 CFR 1.63.

The petition is dismissed as moot.

In view of the joinder of the inventor, further consideration under § 1.47(a) is not necessary. This application does not have any Rule 1.47 status and no such status should appear on the file wrapper. This application need not be returned to this Office for any further consideration under 37 CFR 1.47(a).

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

Telephone inquiries should be directed to Marianne Morgan at (703) 306-3475.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Scott P. Zimmerman, PLLC
P.O. Box 3822
Cary, NC 27519

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JUN 22 2005

OFFICE OF PETITIONS

In re Application of :
Karen Mullis, et. al. :
Application No. 10/183,388 : ON PETITION
Filed: June 28, 2002 :
Attorney Docket No. BS02101 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 22, 2005, to revive the above-identified application.

In response to the non-final Office action mailed June 17, 2004, petitioner hereby submits $1,500 for the petition to revive fee, an amendment, and the statement of unintentional delay as required by 37 CFR 1.137(b).

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

The application file is being referred to Technology Center Art Unit 2642, for review of the amendment filed with the instant petition.

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

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

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1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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OCT 2 2 2007

OFFICE OF PETITIONS

In re Application of :
THYSSEN, et al. :
Application No. 10/183,418 : DECISION GRANTING PETITION
Filed: June 28, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **1875.2030002** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 18, 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 September 19, 2007 ***cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

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

This application is being referred to Technology Center AU 2626 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
Petition 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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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

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MAR 28 2008

OFFICE OF PETITIONS

In re Application of :
Vogel, et al. : DECISION ON PETITION
Application No. 10/183,424 :
Filed: February 28, 2002 :
Atty. Dkt. No: 6056-000048/US :

This decision is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed January 28, 2008.

This application was held abandoned May 19, 2004 for failure to timely submit a proper reply to the non-final Office action mailed February 18, 2004. The non-final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed September 8, 2004.

Petitioners argue non-receipt of the non-final Office action mailed February 18, 2004 and have provided statements and documentary evidence in this regard.

In the absence of any irregularity in the mailing of an Office communication, there is a strong presumption that the Office communication was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office communication was not in fact received.

The showing required to establish non-receipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response. Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the non-received Office action, a copy of the master 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. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The 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).

Office records indicate the non-final Office action was properly mailed to the correspondence address of record at the time of mailing. Accordingly, there was no irregularity in mailing the non-final Office action on the part of the United States Patent and Trademark Office.

Nonetheless, petitioners' statements and documentary evidence submitted herewith establish that the non-final Office action was not received by practitioner at the correspondence address of record.

In view of the evidence thereof, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to the Technology Center 3700 for re-mailing of the non-final Office action. The time period for reply to the non-final Office action will be reset at the time of mailing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

SPE: T. Smith

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/3/07

TO SPE OF : ART UNIT 2626

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/183,448 Patent No.: 7143032

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

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

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

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

Thank You For Your Assistance

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

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

Comments: _____

DLS 4/17/07

RICHEMOND DORVIL
SUPERVISORY PATENT EXAMINER
SPE

2626
Art Unit

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HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

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FEB 12 2009

OFFICE OF PETITIONS

In re Application of :
Andrew Arthur Hunter :
Application No. 10/183,496 : DECISION ON PETITION
Filed: June 28, 2002 :
Attorney Docket No. 30005974-2 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 16, 2008, to revive the above-identified application.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

This application became abandoned for failure to timely pay the issue and publication fees on or before October 14, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed July 14, 2008. Accordingly, the date of abandonment of this application is October 15, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and the publication fee of $300, (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

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

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

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

April M. Wise
Petitions Examiner
Office of Petitions

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Paper No. None

FORREST L. COLLINS
Post Office Box 41040
Brecksville OH 44141-0040

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APR 0 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Robert A. Linder et al.	:	
Application No. 10/183,573	:	
Filed: June 26, 2002	:	DECISION ON PETITION
Attorney Docket Number: 1218	:	UNDER 37 C.F.R. §1.181(A)
Title: MANUFACTURE OF	:	
POLYVINYLCHLORIDE ARTICLES	:	

This is a decision on the petition under 37 C.F.R. §1.181(a) to withdraw the holding of abandonment, filed on December 22, 2006.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R §1.113 in a timely manner to the final Office action mailed April 11, 2006, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 C.F.R §1.136(a) were obtained, and no responses were received. Accordingly, the above-identified application became abandoned on July 12, 2006. A notice of abandonment was mailed on November 24, 2006.

With the present petition, Petitioner has asserted that a Notice of Appeal was sent to the Office on July 14, 2006, and an Appeal Brief was filed on November 16, 2006.

It appears that the response was not matched with the present file until after the mailing of the notice of abandonment. Petitioner has indicated that both responses were received by the Office, but they were not matched with the correct application file, because he placed the wrong serial number on each of these submissions - each bears the serial number 11/183,573. Petitioner is reminded that errors such as occurred can result in loss of rights and care must be taken to avoid such.

It is clear that on July 14, 2006, Petitioner submitted a Notice of Appeal (the response contains a certificate of mailing dated July 11, 2006), and on November 16, 2006, Petitioner submitted an Appeal Brief, containing a certificate of mailing, along with a two-month extension of time. Each of these filings and the fees were associated with application number 11/183,573, per Petitioner's instructions.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that a response was timely submitted.

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

The Notice of Appeal and the Appeal Brief have been moved from the electronic file associated with 11/183,573, and placed into the electronic file associated with 10/183,573. The related filing fees and the extension of time will be moved in due course.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the notice of appeal, submitted on November 16, 2006, can be processed.

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

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

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1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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OCT 3 0 2006

OFFICE OF PETITIONS

In re Application of :
Juin-Hwey Chen :
Application No. 10/183,608 : DECISION ON PETITION
Filed: June 28, 2002 : TO WITHDRAW
Attorney Docket No. 1875.1810001 : 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 04, 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 to withdraw less than all attorneys appointed by customer number 28393 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.

There is an outstanding Office action mailed July 10, 2006 that requires a reply from the applicant

Telephone inquires concerning this decision should be directed to Charles Smoot at 571-272-3299.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

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DEC 0 5 2006

OFFICE OF PETITIONS

In re Application of	:	
Juin-Hwey Chen	:	DECISION ON REQUEST
Application No. 10/183,608	:	TO WITHDRAW FROM
Filed: June 28, 2002	:	RECORD
Attorney Docket No. 1875.1810001	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed by facsimile transmission on November 15, 2006.

The request is **APPROVED**.

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

The request was signed by Linda E. Horner on behalf of herself.

Linda E. Horner has been withdrawn as attorney/agent of record; all other attorneys/agents remain of record.

The correspondence address of record remains unchanged.

There is an outstanding Office action mailed July 10, 2006 that requires a reply from the applicant.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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

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APR 12 2006

OFFICE OF PETITIONS

In re Application of	:	
Wu et al.	:	
Application No. 10/183,614	:	ON PETITION
Filed: June 25, 2002	:	
Attorney Docket Number:	:	
42P13866	:	

This is a decision on the Petition to Revive the Application based upon unintentional abandonment, filed February 27, 2006.

The petition is **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due ("Notice"), mailed August 12, 2005. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on November 13, 2005. A Notice of Abandonment was mailed January 24, 2006.

With the instant petition Applicant has submitted the issue fee.

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

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

Derek L. Woods
Attorney
Office of Petitions

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SUITE 1100
WASHINGTON, DC 20001

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OCT 0 3 2002

OFFICE OF PETITIONS

In re Application of :
Tao et al. :
Application No. 10/183,635 : DECISION GRANTING
Filed: June 28, 2002 : PETITION
Attorney Docket No. 001107.00271 :

This is a decision on the petition filed September 3, 2002, to establish that Figure 7 was part of the originally filed application.

On June 28, 2002, the application was filed.

On August 2, 2002, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s)" stating that the application had been accorded a filing date of June 28, 2002, and advising applicants that Figure 7 described in the specification appeared to have been omitted.

In response, the present petition was filed alleging that Figure 7 was deposited on June 28, 2002. In support, petitioner has submitted a postcard receipt which acknowledges receipt of 11 sheets of drawings on June 28, 2002.[1] Petitioner has also submitted a copy of the missing documentation- Figure 7.

Upon review of the record, Figure 7, deposited on June 28, 2002, has not been located. However, the evidence is convincing that the application papers deposited on June 28, 2002, included Figure 7, and that Figure 7 was subsequently misplaced in the PTO.

In view of the above, the petition is **granted**. The copy of Figure 7 submitted with the petition will be used for examination purposes.

The petition fee of $130 will be credited to petitioner's deposit account.

The Notice mailed August 2, 2002, was sent in error and is hereby vacated.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of June 28, 2002, using the application papers filed on June 28, 2002, and the copy of Figure 7 filed on September 3, 2002.

---

[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.

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

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Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 9-30-02

2 Serial/Patent # 10/183,635

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
X	Petition	3	9-3-02	$ 130
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	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

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7 TOTAL AMOUNT OF REFUND $ 130

8 TO BE REFUNDED BY:

	Treasury Check
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9 19--0733

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

Proves we lost paper

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Steven Bradley TITLE: Petitions Atty

SIGNATURE: [signature] PHONE: 306-5683

OFFICE: Petitions

****

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APPROVED: [signature] DATE: 10/3/02

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

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Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Paper No. 22

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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AUG 13 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Ulf Ulmsten et al :
Application No. 10/183,656 :
Filed: June 27, 2002 :
Attorney Docket No. GYN-0117 :

This is a decision on the petition, filed August 11, 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 28, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries 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 3736 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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FEB 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Ulf Ulmsten, et al.	:	
Application No. 10/183,656	:	DECISION GRANTING PETITION
Filed: June 27, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. GYN-0117	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 5, 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 July 14, 2005 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to April Wise at (571) 272-1642.

This application is being referred to Technology Center AU 3735 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statements.

Frances M. Hicks
Petitions Examiner
Office of Petitions

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

Commissioner for Patents
United States Patent and Trademark Office
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MAR 03 2009

TECHNOLOGY CENTER 2100

Allan Ratner
Ratner & Prestia
P.O. Box 980
Valley Forge CA 19482

In re Application of:
Oshima et al.
Application No. 10/183658
Filed: June 25 2002
For: Mark Forming Apparatus, Method of Forming Laser Mark on Optical Disk Reproducing Apparatus, Optical Disk and Method of Producing Optical Disk

DECISION ON PETITION UNDER 37 C.F.R. § 1.181

This is a decision on the petition filed December 23, 2008 under 37 CFR § 1.181 to have the examiner consider the Information Disclosure Statement s(IDS) filed on April 24, 2008 and May 31, 2006.

A review of the record reveals that the examiner upon seeing the Petition considered all of the references and returned initialed signed copy of the 1449s on February 18, 2009 to petitioner.

As petitioner's relief has already occurred, the petition is **DISMISSED AS MOOT.**

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3612.

Tod Swann
Workgroup Quality Assurance Specialist
Technology Center 2400

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 NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/183,658	06/25/2002	Mitsuaki Oshima	MTS-520US7	1852

23122 7590 03/04/2009

RATNERPRESTIA
P.O. BOX 980
VALLEY FORGE, PA 19482

EXAMINER	
CALLAHAN, PAUL E	
ART UNIT	**PAPER NUMBER**
2137	

MAIL DATE	DELIVERY MODE
03/04/2009	PAPER

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

The time period for reply, if any, is set in the attached communication.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100525

DATE : May 25, 2010

TO SPE OF : ART UNIT 2437

SUBJECT : Request for Certificate of Correction on Patent No.: RE 41,401E

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:

All changes reviewed and approved by the Examiner.

/PEC/
AU2437

/PEC/

O.K. to Enter
/PEC/
5-23-2010

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Number:	RE41,041
Issued:	December 15, 2009
Name of Patentee:	Mitsuaki OSHIMA et al.
Title of Invention:	MARK FORMING APPARATUS, METHOD OF FORMING LASER MARK ON OPTICAL DISK, REPRODUCING APPARATUS, OPTICAL DISK AND METHOD OF PRODUCING OPTICAL DISK

REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT FOR PTO MISTAKE (37 C.F.R. § 1.322(a))

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

Attention: Decision and Certificate of Correction
Branch of the Patent Issue Division

1. Attached is Form PTO/SB/44 being suitable for printing.

2. Correction of the Official Letters Patent is respectfully requested in view of the following text which appears correctly in the application file:

On the Cover Page, FIELD [56] References Cited, FOREIGN PATENT DOCUMENTS, please delete duplicate reference, EP 0545472 6/1993.

On page 2, FOREIGN PATENT DOCUMENTS, "JP 5-23421 9/1993" should read --JP 5-234321 9/1993-- as written in the Supplemental Information Disclosure Statement filed April 2, 2003.

On page 2, OTHER PUBLICATIONS, please add the following reference as written in the Supplemental Information Disclosure Statement (Form 1449) filed April 2, 2003: Korean Patent Office Official Action dated March 5, 2003.

3. Please send the Certificate to:

Name: Lawrence E. Ashery

P.O. Box 980
Valley Forge, PA 19482
(610) 407-0700

Name of Assignee: Panasonic Corporation

Assignment Recorded on: April 10, 1996

Reel: 7884

Frame: 0122

Respectfully submitted,

Lawrence E. Ashery, Reg. No. 34,515
Attorney for Applicants

LEA/sh

Enclosure: Form PTO/SB/44
Copy of Supplemental IDS filed April 2, 2003 (3 pages)

Dated: April 2, 2010

P.O. Box 980
Valley Forge, PA 19482
(610) 407-0700

609773

O.K. to Enter
/PEC/
AU2437

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Number:	RE41,041
Issued:	December 15, 2009
Name of Patentee:	Mitsuaki OSHIMA et al.
Title of Invention:	MARK FORMING APPARATUS, METHOD OF FORMING LASER MARK ON OPTICAL DISK, REPRODUCING APPARATUS, OPTICAL DISK AND METHOD OF PRODUCING OPTICAL DISK

REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT FOR PTO MISTAKE (37 C.F.R. § 1.322(a))

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

Attention: Decision and Certificate of Correction
Branch of the Patent Issue Division

1. Attached is Form PTO/SB/44 being suitable for printing.

2. Correction of the Official Letters Patent is respectfully requested in view of the following text which appears correctly in the application file:

On the Cover Page, FIELD [56] References Cited, FOREIGN PATENT DOCUMENTS, please delete duplicate reference, EP 0545472 6/1993.

On page 2, FOREIGN PATENT DOCUMENTS, "JP 5-23421 9/1993" should read --JP 5-234321 9/1993-- as written in the Supplemental Information Disclosure Statement filed April 2, 2003.

On page 2, OTHER PUBLICATIONS, please add the following reference as written in the Supplemental Information Disclosure Statement (Form 1449) filed April 2, 2003: Korean Patent Office Official Action dated March 5, 2003.

3. Please send the Certificate to:

Name: Lawrence E. Ashery

P.O. Box 980
Valley Forge, PA 19482
(610) 407-0700

Name of Assignee: Panasonic Corporation

Assignment Recorded on: April 10, 1996

Reel: 7884

Frame: 0122

Respectfully submitted,

Lawrence E. Ashery, Reg. No. 34,515
Attorney for Applicants

LEA/sh

Enclosure: Form PTO/SB/44
Copy of Supplemental IDS filed April 2, 2003 (3 pages)

Dated: April 2, 2010

P.O. Box 980
Valley Forge, PA 19482
(610) 407-0700

609773

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: RE41,041

APPLICATION NO.: 10/183,658

DATED: DECEMBER 15, 2009

INVENTOR(S): MITSUAKI OSHIMA 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, FIELD [56] References Cited, FOREIGN PATENT DOCUMENTS, please delete duplicate reference, EP 0545472 6/1993.

On page 2, FOREIGN PATENT DOCUMENTS,
"JP 5-23421 9/1993" should read --JP 5-234321 9/1993--.

On page 2, OTHER PUBLICATIONS, please add reference: Korean Patent Office Official Action dated March 5, 2003.

Mailing Address of Sender:

RatnerPrestia
P.O. Box 980
Valley Forge, PA 19482
(610) 407-0700
609860

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 completing the form, call 1-800-PTO-9199 and select option 2.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/183,658	06/25/2002	Mitsuaki Oshima	MTS-520US7	1852

23122 7590 06/01/2010

RATNERPRESTIA
P.O. BOX 980
VALLEY FORGE, PA 19482

EXAMINER	
CALLAHAN, PAUL E	
ART UNIT	PAPER NUMBER
2137	
MAIL DATE	DELIVERY MODE
06/01/2010	PAPER

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

The time period for reply, if any, is set in the attached communication.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100525A

DATE : May 25, 2010

TO SPE OF : ART UNIT 2437

SUBJECT : Request for Certificate of Correction on Patent No.: RE 41,401E

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:

All changes reviewed and approved by the Examiner.

/PEC/
AU2437

/Emmanuel L. Moise/
Supervisory Patent Examiner, Art Unit 2437

UNITED STATES 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. 082604

Pennie & Edmonds, LLP
1155 Ave. of the Americas
New York, NY 10036

In re Application of:	:	
Bruce Bent et al.	:	DECISION ON PETITION
Serial No.: 10/183,661	:	TO MAKE SPECIAL
Filed: June 27, 2002	:	
Attorney Docket No.: 11559-006-999	:	

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed May 16, 2004, to make the above-identified application special.

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

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

The petition includes a declaration from one of the co-inventors, Bruce Bent, showing that he is sixty-five (65) years of age or more.

Accordingly, the petition is GRANTED.

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

Inquiries regarding this decision should be directed to Hien Phan at (571) 272-1606.

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Hien Phan, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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UNITED STATES PATENT AND TRADEMARK OFFICE
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OFFICE OF DIRECTOR
GROUP

Paper No. 5

J1033 U.S. PTO
10/183679
06/27/02

Maryellen Feeherty
Reed Smith LLP
2500 One Liberty Pl.
1650 Market St.
Philadelphia, PA 19103

In re Application of
Johnson et al.
Application No. 09/631,378
Filed: August 3, 2000

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102(d), filed July 5, 2001, to make the above-identified application special.

The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02, Item I: Manufacture.

A grantable petition under 37 C.F.R. § 1.102(d), M.P.E.P. § 708.02, Section I, must be accompanied by the required fee pursuant to 37 C.F.R. § 1.17(I) and a statement by the applicant, assignee or an attorney/agent registered to practice before the Office alleging:

(a) the possession by the prospective manufacturer of sufficient presently available capital (stating approximately the amount) and facilities (stating briefly the nature thereof) to manufacture the invention in quantity or that sufficient capital and facilities will be made available if a patent is granted;

(b) that the prospective manufacturer will not manufacture, or will not increase present manufacture, unless certain that the patent will be granted;

© that the prospective manufacturer obligates himself, herself or itself, to manufacture the invention, in the United States or its possessions, in quantity immediately upon the allowance of claims or issuance of a patent which will protect the investment of capital and facilities; and

(d) that the applicant or assignee 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.

The petition contains the required fee under 37 C.F.R. § 1.17(I) and items (a)-(d) in accordance with M.P.E.P., Section 708.02, Item I.

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

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

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

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

Inquires regarding this decision should be directed to Michael L. Gellner at 703-308-1721.

M.L. Gellner

Michael L. Gellner, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 7

E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON DE 19805

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MAR 1 8 2003

OFFICE OF PETITIONS

In re Application of	:	
Allen et al.	:	
Application No. 10/183,687	:	DECISION GRANTING PETITION
Filed: 27 June, 2002	:	
Att'y Docket No. BB1458 USNA	:	

This is a decision on the petition filed on 17 December, 2002, requesting that the Notice of Incomplete Nonprovisional Application mailed on 31 July, 2002, be withdrawn.

On 27 June, 2002, the application was filed.

On 31 July, 2002, Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application" stating that the application had not been accorded a filing date because the application was deposited without drawings and that the filing date of the application would be the date of receipt of the drawings.

In response, on 17 December, 2002, the present petition, and two (2) sheets of drawings were filed. Petitioners argue that two (2) sheets of drawings were filed with the other application papers on 27 June, 2002, and that the drawings were misplaced in the U.S. Patent and Trademark Office (Office). In support of the petition, a copy of petitioner's postcard receipt which shows an Office stamp of 06/27/02, and the above-identified application number, and acknowledges receipt of, *inter alia*, two (2) sheets of drawings was supplied with the present petition. Petitioner has also supplied a copy of two (2) sheets of drawings. Petitioner requests that the application, including two (2) sheets of drawings, be accorded a filing date of 27 June, 2002.

Upon review of the record, no sheets of drawings deposited on 27 June, 2002, have been located among the application papers.

However, the evidence is convincing that the application papers deposited on 27 June, 2002, included two (2) sheets of drawings, which were subsequently misplaced in the USPTO. Therefore, the application, including the two (2) sheets of drawings, was complete on filing and entitled to a filing date of 27 June, 2002.

In view of the above, the petition is granted.

The Notice of Incomplete Nonprovisional Application mailed on 31 July, 2002, is withdrawn to the extent that it stated that the application had been deposited without drawings. The petition fee of $130.00 will be credited to counsel's deposit account, No. 04-1928. Additionally, petitioner should note that an extension of time is not appropriate when an application is incomplete. As such, the three (3) month extension of time filed on 17 December, 2002, will be credited to counsel's deposit account, No. 04-1928.

Receipt of the declaration and late-filing surcharge on 17 December, 2002, is acknowledged.

The application will be processed with a filing date of 27 June, 2002, using the application papers filed on 27 June, 2002, and the two (2) sheets of drawings supplied on 17 December, 2002.

The application is being returned to Initial Patent Examination Division for reprocessing with a filing date of 27 June, 2002, using the application papers filed on 27 June, 2002, and the two (2) sheets of drawings supplied on 17 December, 2002.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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JUL 0 3 2006

OFFICE OF PETITIONS

In re Application of :

Friday et al. :
Application No. 10/183,704 : DECISION ON PETITION
Filed: June 25, 2002 : TO WITHDRAW
Attorney Docket No. 021419-2.00US : 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 November 26, 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 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.

A Power of Attorney by Assignee of Entire Interest was received on December 22, 2004. However, the Power of Attorney was incomplete, as it lacked a Statement under 3.73(b), which is required whenever an assignee wishes to take action in a matter pending before the Office. Accordingly, all future communications from the Office will be directed to the first named inventor at the first address listed below until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272- 3206.

David Bucci
Petitions Examiner
Office of Petitions

cc:

ROBERT J. FRIDAY
16081 REDWOOD LODGE ROAD
LOS GATOS, CA 95033

MARK SPOLYAR
38 FOUNTAIN STREET
SAN FRANCISCO, CA 94114

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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4417 LANCASTER PIKE
WILMINGTON DE 19805

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SEP 2 9 2004

OFFICE OF PETITIONS

In re Application of :
Jing C. Chang, et al. :
Application No. 10/183,710 : ON PETITION
Filed: June 27, 2002 :
Attorney Docket No. CH-2784 US NA :

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on 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 relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being referred to Technology Center AU 1732 for further processing of the request for continued examination under 37 CFR 1.114 filed September 23, 2004.

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

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

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Stephen D. Harper, Esq.
Henkel Corporation
Suite 200
2500 Renaissance Blvd.
Gulph Mills PA 19406

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JUL 10 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Franken, et al. :
Application No. 10/183,715 :
Filed: June 27, 2002 :
Attorney Docket No. 646-118 :
For: PU HOT MELT ADHESIVES FOR PRODUCTION OF CORK STOPPERS

This is a decision on the petition under 37 CFR 1.181, filed May 12, 2006 (certificate of mailing date May 10, 2006) to withdraw the holding of abandonment.

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

The Office contended that the above-identified application became abandoned for failure to submit a reply to the October 11, 2005 non-final Office action, which set a three month extendable period for reply. No extensions of time or reply being received, the Office contended that this application became abandoned on January 12, 2006. A Notice of Abandonment was mailed on May 2, 2006.

Petitioners allege that the October 11, 2005 non-final Office action was not received at the correspondence address of record.

The showing required to establish non-receipt of an Office communication must include:

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

[1] See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

Petitioners have submitted a copy of the docket record where the requirement would have been entered had the October 11, 2005 non-final Office action been received. In addition, practitioner referenced the record in the petition and stated that a review of the application file jacket for the October 11, 2005 non-final Office action was fruitless. Petitioners have included a mail log of incoming PTO mail, as received at the correspondence address of record, for the time period during which the October 11, 2005 non-final Office action would have been received. The October 11, 2005 non-final Office action is not listed. It is noted that the October 11, 2005 non-final Office action was returned to the Office on October 20, 2005.

Petitioners have established non-receipt. The petition is **granted**, the Notice of Abandonment is vacated, and the holding of abandonment is withdrawn.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

After the mailing of this decision, the application will be returned to Technology Center AU 1711 he re-mailing of the October 11, 2005 non-final Office action with a new period set for reply.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: DILWORTH & BARRESE, LLP
333 EARLE OVINGTON BLVD.
UNIONDALE, NY 11553

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NXP, B.V.
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M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE CA 95131

MAILED

FEB 18 2009

OFFICE OF PETITIONS

In re Application of :
Thorwald Rabeler :
Application No. 10/183,716 : DECISION ON PETITION
Filed: June 27, 2002 :
Attorney Docket No. US 020190 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 2, 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 re-mailed March 21, 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 June 22, 2007. A Notice of Abandonment was mailed February 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 an Amendment, (2) the petition fee of $1,540.00, and (3) an adequate statement of unintentional delay.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. 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. It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. 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 Joan Olszewski at (571) 272-7751.

This application is being referred to Technology Center AU 2137 for appropriate action by the Examiner in the normal course of business on the reply received.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Mark A. Wilson
PMB: 348
2530 Berryessa Road
San Jose, California 95132

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4 RESEARCH DRIVE
SHELTON, CT 06484-6212

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FEB 23 2007

OFFICE OF PETITIONS

In re Application of :
Tapio Kuiri, et al. :
Application No.: 10/183,720 : ON PETITION
Filed: June 27, 2002 :
Attorney Docket No.: 019B.0029.U1(US) :

This is a decision on the petition, filed February 22, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 22, 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 2618 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

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.*

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OFFICE OF PETITIONS

Jones Day
222 East 41st Street
New York, New York 10017

In re Application of
Janson et al.
Application No. 10/183,728
Filed: June 27, 2002
Attorney Docket No. BEAS-01246US1

: DECISION GRANTING PETITION

This decision is in response to applicants' "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" timely[1] filed on July 5, 2007 requesting that the office change the PTA determination at the time of the issuance of the patent from a determination of five to a determination of three hundred and thirty-six (335) days.

Applicants' application for PTA is **GRANTED.** The Office will adjust the PAIR calculation from a period of 5-days to THREE HUNDRED AND THIRTY-FIVE (335) days. The Office will *sua sponte* adjust the PTA determination to reflect this decision.

Applicants argue that the Office erred in entering the proper date in response to the mailing of the notice of informal or nonresponsive amendment. Applicants allege that the correct date of reply was December 2, 2005 not June 8, 2006. Applicants note that the file history reflects the submission by express mail on December 2, 2005 as shown in the file history. Therefore, applicants allege that the reduction of 232 days pursuant to 37 CFR 1.704(c)(7) is improper. Moreover, applicants allege that since the proper date of submission was December 2, 2005, the Office had four months in which to reply but failed to reply until August, 22, 2006, a delay by the Office of 142 additional days under 37 CFR 1.702(a)(2). Applicants do not dispute the 419 days of Office delay under 37 CFR 1.702(a)(1). Applicants further do not dispute the reductions of 92 and 90 days under 37 CFR 1.704(b).

A review of the file reveals that applicants' arguments are persuasive. The Office notes that applicants' petition is thorough and documented as to the sequencing of events. The file history reflects that the USPTO stamped a postcard showing the date of December 2, 2005 as the date of the reply to the noncompliant notice. The June 8, 2006 submission was a courtesy copy of the previously submitted reply. Accordingly, applicants reduction under 37 CFR 1.704(c)(7) should have been only 44 days as argued by applicants. Moreover, since applicants response on December 2, 2005 was complete, the Office should have mailed a reply to applicants by April 2, 2006. However, the record reflects that the Office did not reply until August 22, 2006, a 142 day delay upon the Office. Accordingly, the tally should reflect the following 561 days of Office delay and 226 days of applicant delay. Accordingly, the correct amount of PTA at the time of the mailing of the notice of allowance is 335 days.

---

[1]Issue fee paid on July 5, 2006.

Application No.10/183,278

The office has assessed the $200.00 fee required under 37 CFR 1.18(e). No additional fees are required by the Office. Any delays by the Office pursuant to 37 CFR 1.702(a)(4) or 1.702(b) will be reflected in the issue notification letter mailed to applicant approximatley three weeks prior to issuance.

After the mailing of this decision, the Office will forward this application to the Office of Patent Publications for a prompt issuance of the patent.

Any questions concerning this application should be directed to Kery Fries, Senior Legal Advisor, at 571-272-7757.

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

cc: Adjusted PAIR calculation

Day : Saturday
Date: 9/15/2007

PALM INTRANET

Time: 10:38:21

PTA Calculations for Application: 10/183728			
Application Filing Date:	06/27/2002	PTO Delay (PTO):	419
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	414
Post-Issue Petitions:	0	Total PTA (days):	335
PTO Delay Adjustment:	330		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
67	09/15/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	330		
53	04/04/2007	MAIL NOTICE OF ALLOWANCE			
52	04/04/2007	MAIL FORMAL DRAWINGS REQUIRED			
51	04/02/2007	ISSUE REVISION COMPLETED			
50	04/02/2007	FORMAL DRAWINGS REQUIRED			
49	04/02/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
48	04/02/2007	CASE DOCKETED TO EXAMINER IN GAU			
47	03/19/2007	NOTICE OF ALLOWABILITY			
46	02/20/2007	MISCELLANEOUS INCOMING LETTER			
45	03/08/2007	DATE FORWARDED TO EXAMINER			
44	02/20/2007	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
43	02/20/2007	NOTICE OF APPEAL FILED		90	41
42	02/20/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
41	08/22/2006	MAIL FINAL REJECTION (PTOL - 326)			
40	08/21/2006	FINAL REJECTION			
39	10/19/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
38	06/19/2006	DATE FORWARDED TO EXAMINER			
37	06/08/2006	RESPONSE AFTER NON-FINAL ACTION		232	28
32	11/21/2005	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
31	10/19/2005	REFERENCE CAPTURE ON IDS			
30	10/19/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
29	11/16/2005	DATE FORWARDED TO EXAMINER			

28.1	10/19/2005	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
28	10/19/2005	RESPONSE AFTER NON-FINAL ACTION		92	26
27	10/19/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
26	04/19/2005	MAIL NON-FINAL REJECTION			
25	04/18/2005	NON-FINAL REJECTION			
24	02/17/2005	CORRESPONDENCE ADDRESS CHANGE			
23	02/17/2005	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
22	02/07/2005	DATE FORWARDED TO EXAMINER			
21	01/14/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
20	01/14/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
19	01/14/2005	WORKFLOW INCOMING AMENDMENT IFW			
18	10/19/2004	MAIL RESTRICTION REQUIREMENT	419		-1
17	10/16/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
16	07/21/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
15	06/27/2002	REFERENCE CAPTURE ON IDS			
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10	12/04/2002	APPLICATION IS NOW COMPLETE			
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5	06/27/2002	INITIAL EXAM TEAM NN			
4	06/27/2002	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
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2	07/12/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	06/27/2002	INITIAL EXAM TEAM NN			

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Jones Day
222 East 41st Street
New York, New York 10017

In re Application of
Janson et al.
Application No. 10/183,728
Filed: June 27, 2002
Attorney Docket No. BEAS-01246US1

: DECISION GRANTING PETITION

This decision is in response to applicants' "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" timely[1] filed on July 5, 2007 requesting that the office change the PTA determination at the time of the issuance of the patent from a determination of five to a determination of three hundred and thirty-six (335) days.

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[1]Issue fee paid on July 5, 2006.

Application No.10/183,278

The office has assessed the $200.00 fee required under 37 CFR 1.18(e). No additional fees are required by the Office. Any delays by the Office pursuant to 37 CFR 1.702(a)(4) or 1.702(b) will be reflected in the issue notification letter mailed to applicant approximatley three weeks prior to issuance.

After the mailing of this decision, the Office will forward this application to the Office of Patent Publications for a prompt issuance of the patent.

Any questions concerning this application should be directed to Kery Fries, Senior Legal Advisor, at 571-272-7757.

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

cc: Adjusted PAIR calculation

Day : Friday
Date: 12/7/2007

PALM INTRANET

Time: 11:55:11

PTA Calculations for Application: 10/183728			
Application Filing Date:	06/27/2002	PTO Delay (PTO):	419
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	414
Post-Issue Petitions:	0	Total PTA (days):	335
PTO Delay Adjustment:	330		

File Contents History

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21	01/14/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
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17	10/16/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
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15	06/27/2002	REFERENCE CAPTURE ON IDS			
14	06/27/2002	PRELIMINARY AMENDMENT			
13	06/27/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
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3	07/12/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	07/12/2002	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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Cislo & Thomas, LLP
233 Wilshire Blvd
Suite 900
Santa Monica, CA
90401-1211

In re application of
John Mikkelsen et al.
Application No. 10/183,756
Filed: June 26, 2002
For: MEDIA DELIVERY PLATFORM

: **DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

This is in response to the petition filed on January 24, 2003 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

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

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

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

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

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

RAR/vdb: 10/18/04

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/16/05

Paper No.: _____

TO SPE OF : ART UNIT 1616

SUBJECT : Request for Certificate of Correction on Patent No.: 6759056 B2

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

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Virginia Tolbert

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 113

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

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

Comments:

requested corrections remove ~~re~~ antecedent basis issues.

CHRISTOPHER S. F. LOW
~~SUPERVISORY PATENT EXAMINER~~
TECHNOLOGY CENTER 1600

Christopher Low for 1614

SPE G. Kunz SPE 1616 Art Unit

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United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 5

KAREN A HARDING
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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OFFICE OF PETITIONS

In re Application of
Molock, Maiden, Lin, Caison, Clark, Love
Application No. 10/183,765
Filed: June 25, 2002
Attorney Docket No VTN 593

DECISION ACCORDING
STATUS UNDER
RULE 47(a)

This is in response to the petition under 37 CFR 1.47(a), filed October 3, 2002.

The petition is **GRANTED**.

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

A "Notice to File Missing Parts of Non-Provisional Application" ("Notice") was mailed to petitioner on July 31, 2002, indicating that petitioner neglected to file a proper oath or declaration in compliance with 37 CFR 1.63. The Notice also advised petitioner that a $130.00 surcharge was also due because a proper oath or declaration was not timely filed. The Notice set forth a period of reply of two months from its mailing date and indicated that extensions of time for reply were available pursuant to 37 CFR 1.136(a).

In response thereto, petitioner filed the instant petition. Petitioner also filed several accompanying exhibits through which petitioner established that although the inventor Love was presented with a complete copy of the application papers, inventor Love has, to date, failed to execute the same. Inventor Love's failure to return the declaration, in spite of his presumed receipt of the same, will be interpreted as constructive refusal to join the prosecution of the application.

Petitioner has shown that the non-signing inventor has refused to join the filing of the above-identified application after having been presented with the application papers, and the above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

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

Pursuant to the authorization provided by petitioner, deposit account 10-0750 will be charged $130.00 for the petition fee.

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

Telephone inquiries concerning this decision should be directed to Gregory J. Toatley, Jr. at (703) 305-4066 or to the undersigned at (703) 305-0010.

Kenya A. McLaughlin

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LETTER

Robert Love
563 Valley View Drive
Hyrum, Utah 84319

COPY MAILED

NOV 2 2 2002

OFFICE OF PETITIONS

In re Application of
Molock, Maiden, Lin, Caison, Clark, Love
Application No. 10/183,765
Filed: June 25, 2002
Attorney Docket No VTN 593

Dear Mr. Robert Love:

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

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

Telephone inquiries concerning this communication should be directed to Gregory J. Toatley, Jr. at (703) 305-4066 or to the undersigned at (703) 305-0010. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington, DC area).

Kenya A. McLaughlin

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

cc: KAREN A HARDING
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/183,770	06/27/2002	John N. Feder	D0067A CIP	2431

23914 7590 07/14/2006

LOUIS J. WILLE
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P O BOX 4000
PRINCETON, NJ 08543-4000

EXAMINER	
HAMUD, FOZIA M	

ART UNIT	PAPER NUMBER
1647	

DATE MAILED: 07/14/2006

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. FEDER ET AL.
Issue Date: 09/27/05
Appl No.: 10/183,770
Filed: June 27, 2002
For: Bristol-Myers Squibb Company

DECISION GRANTING PETITION
37 CFR 1.323

This is a decision on the petition filed 11/04/05 to correct inventorship under 37 CFR 1.323.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

Brenda Brumback
Supervisory Patent Examiner
Art Unit 1647
Technology Center 1600

LOUIS J. WILLE
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P O BOX 4000
PRINCETON, NJ 08543-4000

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 07/26/06

TO SPE OF : ART UNIT 1647

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/183770** Patent No.: **6949363**

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

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

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

A. Green

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

_____

_____

_____

_____

Brenda Brumback — **SPE**

1647 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

TAROLLI, SUNDHELM, COVELL & TUMMINO, LLP
1300 EAST NINTH STREET
SUITE 1700
CLEVELAND, OH 44114

COPY MAILED

APR 0 8 2009

OFFICE OF PETITIONS

In re Patent No. 6,926,782 :
Issue Date: August 9, 2005 :
Application No. 10/183,775 : NOTICE
Filed: June 27, 2002 :
Patentee(s): Timothy Bryan McGlinchy :

This is a Notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed on March 12, 2009.

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

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**. Therefore, status as a small entity has been removed and all future fees paid must be submitted at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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 PROPP
PMB1 245
8205 SANTA MONICA BOULEVARD
WEST HOLLYWOOD CA 90346

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MAY 18 2005

OFFICE OF PETITIONS

In re Application of :
William R. Livesay et al :
Application No. 10/183,784 : ON PETITION
Filed: June 27, 2002 :
Attorney Docket No. 1015-001-10099 :

This is a decision on the petition filed May 11, 2005, under 37 CFR 1.137(b), to revive the above-identified application. This is also a decision on the petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

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

The petition under 37 CFR 1.313(c)(2) is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed November 8, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 9, 2005.

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

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

Petitioner is advised that the issue fee paid on May 11, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

[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

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

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

The application will be referred to Technology Center AU 2883 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

cc:
WILLIAM PROPP
6150 YARROW DRIVE, SUITE A
CARLSBAD, CA 92009

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first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WILLIAM PROPP
PMB1 245
8205 SANTA MONICA BOULEVARD
WEST HOLLYWOOD CA 90346

FAX RECEIVED

MAY 18 2005

OFFICE OF PETITIONS

In re Application of :
William R. Livesay et al :
Application No. 10/183,784 : CORRECTED DECISION ON
Filed: June 27, 2002 : PETITION
Attorney Docket No. 1015-001-10099 :

This is a corrected decision on the petition filed May 11, 2005, under 37 CFR 1.137(b), to revive the above-identified application. This is also a decision on the petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

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

The petition under 37 CFR 1.313(c)(2) is **DISMISSED**.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed November 8, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 9, 2005.

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

The petition under 37 CFR 1.313(c)(2) is dismissed because the submission in the form of a reply to the RCE filed May 11, 2005, is not in compliance with 37 CFR §1.114.

In view of the above, the decision mailed May 18, 2005 is hereby vacated.

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

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

The application will be referred to Patent Publication to be processed into a patent.

Karen Creasy

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

cc:
WILLIAM PROPP
6150 YARROW DRIVE, SUITE A
CARLSBAD, CA 92009

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UNITED STATES PATENT AND TRADEMARK OFFICE

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OIPE/IAP

JUN 17 2005

WILLIAM PROPP
PMB1 245
8205 SANTA MONICA BOULEVARD
WEST HOLLYWOOD CA 90346

FAX RECEIVED

MAY 18 2005

OFFICE OF PETITIONS

In re Application of :
William R. Livesay et al :
Application No. 10/183,784 : CORRECTED DECISION ON
Filed: June 27, 2002 : PETITION
Attorney Docket No. 1015-001-10099 :

This is a corrected decision on the petition filed May 11, 2005, under 37 CFR 1.137(b), to revive the above-identified application. This is also a decision on the petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

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

The petition under 37 CFR 1.313(c)(2) is **DISMISSED**.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed November 8, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 9, 2005.

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

The petition under 37 CFR 1.313(c)(2) is dismissed because the submission in the form of a reply to the RCE filed May 11, 2005, is not in compliance with 37 CFR §1.114.

In view of the above, the decision mailed May 18, 2005 is hereby vacated.

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

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

The application will be referred to Patent Publication to be processed into a patent.

Karen Creasy

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

cc:
WILLIAM PROPP
6150 YARROW DRIVE, SUITE A
CARLSBAD, CA 92009

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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#19

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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APR 0 6 2004

OFFICE OF PETITIONS

In re Application of :
Ulf Ulmsten et al :
Application No. 10/183,790 : ON PETITION
Filed: June 27, 2002 :
Attorney Docket No. GYN0116

This is a decision on the petition, filed April 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 29, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The file will be forwarded to Technology Center AU 3736 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FISH & RICHARDSON, PC
4350 LA JOLLA VILLAGE DRIVE
SUITE 500
SAN DIEGO CA 92122

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NOV 2 5 2002

OFFICE OF PETITIONS

In re Application of
Volkonsky, Dvukhsherstnov, Chernyakov, Allen, and Kent
Application No. 10/183,802
Filed: December 21, 2001
Attorney Docket No. 07247-004002
For: MAGNETICALLY RESPONSIVE COMPOSITION

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed September 30, 2002.

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

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

The above-cited application was filed without a properly executed oath or declaration. In response, the Office mailed a "Notice to File Missing Part of Non-Provisional Application" (the "Notice") on September 13, 2002. The Notice set forth a period for reply of two months. On September 30, 2002, in response to the Notice, petitioner filed the instant petition and supplementary evidentiary documents.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee; and,

(4) a statement of the last known address of the non-signing inventor.

Petitioner lacks item (1) as set forth above.

As to item (1), petitioner has neither provided sufficient proof that inventor Volkonsky cannot be reached after diligent effort nor provided an indication that inventor Volkonsky was presented with a complete copy of the application papers. If it is petitioner contention that the non-signing inventor cannot be reached, petitioner must detail the facts of the diligent efforts put forth to locate the non-signing inventor. Section 409.03(d) of the *Manual of Patent Examining Procedure* provides guidance as to what will suffice as sufficient proof that the non-signing inventor cannot be reached as is alleged in the instant petition. This section states, in pertinent part, as follows:

> Where inability to find or reach a non-signing 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 non-signing inventor could not be found or reached should Be made part of the statement. The steps taken to locate the whereabouts of the Non-signing inventor should be included statement of facts.

Petitioner provides only a conclusory statement that the non-signing inventor cannot be located, and does not provide any details as to petitioner's efforts to locate the non-signing inventor for the purposes of joining the instant application. Any renewed petition filed, that alleges that the non-signing inventor is unavailable, must detail the efforts undertaken by petitioner to locate the non-signing inventor.

If it is petitioner's contention that the non-signing inventor has refused to join the application, petitioner must provide proof that the complete application papers were sent to the non-signing inventor at his last known address. Guidance as to what is required to be sent to the non-signing inventor before a refusal to sign can be alleged is found in the *Manual of Patent Examining Procedure,* Section 409.03(d), which reads, in pertinent part,:

> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature.

It is not apparent from any of the evidentiary documents filed that a complete copy of the application was ever presented to the non-signing inventor; the non-signing inventor must presented with a complete copy of the application papers for his review before a refusal can be asserted. Further, the copies of the letters from the Russian firm retained to assist in locating the non-signing inventor and that speak to an alleged express refusal made by the non-signing inventor are noted. These letters, while corroborative, are not conclusive proof of either the non-signing inventor's unavailability or his refusal to join the application. The letters, dated in August and September of 2000, speak only to the non-signing inventor's unavailability for a prior application and his unwillingness to join the application two years ago. The letters do not speak to the subject application and the non-signing inventor's willingness, or unwillingness, to join the application. Even if the letters were accepted as prima facie evidence of the non-signing inventor's refusal to join the subject application, the letters would still be deficient as to the requirements of 37 CFR 1.47(a) because there is no evidence that a complete copy of the application papers was presented to the non-signing inventor. With any renewed petition filed, if a refusal is alleged, petitioner must provide evidence that a complete copy of the application papers was presented to the non-signing inventor.

Deposit account 06-1050 will be assessed $130.00 for the instant petition fee.

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

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

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

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

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

Kenya A. McLaughlin

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 8

FISH & RICHARDSON, PC
4350 LA JOLLA VILLAGE DRIVE
SUITE 500
SAN DIEGO, CA 92122

COPY MAILED

JUN 20 2003

OFFICE OF PETITIONS

In re Application of	:
Volkonsky, Dvukhsherstnov, Chernykov, Allen, and Kent	:
Application No. 10/183,802	: DECISION GRANTING STATUS
Filed: June 24, 2002	: UNDER 37 CFR 1.47(a)
Attorney Docket No. 07247-004002	:
For: MAGNETICALLY RESPONSIVE COMPOSITION	:

This is in response to the renewed petition under 37 CFR 1.47(a), filed May 29, 2003 (certificate of mailing dated May 27, 2003.)

The renewed petition is **GRANTED**.

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

The above-cited application was filed without a properly executed oath or declaration. In response, the Office mailed a "Notice to File Missing Part of Non-Provisional Application" (the "Notice") on September 13, 2002. The Notice set forth a period for reply of two months. On September 30, 2002, in response to the Notice, petitioner filed a petition under 37 CFR 1.47(a) that was dismissed by a decision mailed November 25, 2002. On May 29, 2003, the instant renewed petition was filed with a request for an extension of time.

Through the instant petition, petitioner established that, although the non-signing inventor was mailed the complete application papers (specification, abstract, claims, drawings, and assignment), he has provided no response and is deemed to have constructively refused to 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.

Reference is made to petitioner's statement that "[a]pplicant also respectfully submitted that the previously submitted petition was sufficient under the applicable rules and standards." Petitioner's conclusion is appreciated, however; the Office of Petitions is charged with making such determinations and it remains

the determination of the undersigned that the evidence provided with the petition of September 30, 2002, was, in fact, deficient. The evidence provided in support of the petition filed September 30, 2002, spoke almost entirely to efforts put forth to locate the non-signing inventor relative to a patent application filed two years before the above-cited application. Further, the remaining evidence provided only drew conclusions and provided no relevant facts by which the Office of Petitions could make a determination that the non-signing inventor was unavailable or unwilling to join the prosecution of the present application. It remains the determination of the undersigned that the evidence provided with the petition of September 30, 2002, was, indeed, deficient, notwithstanding petitioner's assertion to the contrary.

Please further note that the decision mailed November 25, 2002, dismissing the petition of September 30, 2002, set forth an extendable period for reply of two months from its mailing date. The instant renewed petition was not received until May 29, 2003, and the certificate of mailing is dated May 27, 2003. Although petitioner obtained an extension of time within the fourth month, petitioner needs an extension of time within the fifth month. In order to be considered timely with the extension of time within the fourth month, the instant renewed petition would have had to been received by, or have a certificate of mailing dated, May 26, 2003 (as May 25, 2003, was a Sunday). The certificate of mailing is dated May 27, 2003, therefore; deposit account 11-1410 will be assessed an additional $260.00 for the extension of time within the fourth month--the total cost of which is $985.00.

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

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Victor A. Volkonsky
143395 Moskovskaya Obl.
Naro-Forminsk
PO Box Alabina, Village Burtezevo-2
Russia

AIR MAIL

COPY MAILED

JUN 20 2003

OFFICE OF PETITIONS

In re Application of
Volkonsky, Dvukhsherstnov, Chernykov,
Allen, and Kent
Application No. 10/183,802
Filed: June 24, 2002
Attorney Docket Number: 07247-004002
For: MAGNETICALLY RESPONSIVE
COMPOSITION

LETTER

Dear Mr. Volkonsky:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Kenya A. McLaughlin at (703) 305-0010. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Fish & Richardson
4350 LaJolla Village Drive
Suite 500
San Diego, CA 92122

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OFFICE OF PETITIONS

MUNCY GEISSLER OLDS & LOWE PLLC
P.O. BOX 1364
FAIRFAX, VA 22038-1364

In re Application of :
Liang-Gee Chen et al :
Application No. 10/183,844 : DECISION ON PETITION
Filed: June 27, 2002 :
Attorney Docket No. NTU-PT002 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 5, 2009, to revive the above-identified application.

The petition is **DISMISSED.**

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

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 3, 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 September 4, 2005.

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

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 would not be granted where the abandonment or the failure to pay the fee for issuing the patent was intentional as opposed to being unintentional or unavoidable." See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), reprinted in 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). See In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (4 years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on September 4, 2005. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as Kao H. Lu was counsel of record at the time of abandonment, Kao H. Lu should explain why this application became abandoned while it was under his control and what efforts he made to further reply of

itself and with whom this matter was discussed outside of Kao H. Lu. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), Kao H. Lu and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons responsible for handling this application, and the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). See MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over 4 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons handling this application and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. See also New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

Any renewed petition may be addressed as follows:

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

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

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

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

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.137(b).

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

Irvin Dingle
Petitions Examiner
Office of Petitions

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In re Application :
Schluetter, et al. :
Application No. 10/183,845 : PATENT TERM ADJUSTMENT
Filed: June 26, 2002 :
Dkt. No.: 02-453 :

This decision is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed February 17, 2009. This matter is being properly treated under 37 CFR 1.705(b) as an application for patent term adjustment.

The Determination of Patent Term Adjustment under 35 USC 154(b) was mailed February 9, 2009. The instant application was timely filed February 17, 2009 along with issue fee payment. Applicants contest the adjustment insofar as it relates to the Office's failure to issue the patent within three years of the filing date of the application pursuant to 37 CFR 1.703(b) in view of Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

To the extent that this application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is ordinarily required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See, 37 CFR 1.703(b). It is noted that at the time of this decision, the patent has not issued.

Applicants are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicants may seek such consideration without payment

of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

With respect to the over 3 year calculation, rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

The required $200.00 fee set forth in 37 CFR 1.18(e) has been charged to petitioners' deposit account, as authorized.

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

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

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Patent No. 7,552,077
Issued: June 23, 2009
Application No. 10/183,845
Filed: June 26, 2002
Dkt. No.: 02-453

: PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed June 26, 2009. Patentee requests correction of the patent term adjustment from 1459 days to 1910 days. Patentee requests this correction on the basis that the Office took in excess of three years to issue the above-referenced patent.

The application for patent term adjustment (PTA) under 37 CFR 1.705(d) is **DISMISSED**.

The above-identified application matured into U.S. Pat. No. 7,552,077 on June 23, 2009. The patent issued with a patent term adjustment of 1459 days. The instant application for patent term adjustment was timely filed in accordance with 37 CFR 1.705(d). Patentee argues that in view of Wyeth v. Dudas, Civil Action No. 07-1492, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. Sept. 30, 2008), the patent is entitled to an adjustment of 1910 days (1429 days of "A delay" in connection with the Office action mailed July 25, 2007 *plus* 51 days of adjustment of "A delay" in connection with the Notice of Allowance mailed September 16, 2008 *plus* 1267 days of "B period" adjustment *less* 810 overlapping days *less* 27 days of applicant delay).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay.

The Office asserts that as of the filing of the request for continued examination (RCE) on December 15, 2008, the application was pending three years and 1267 days after its filing date (June 27, 2005 to December 14, 2008). The Office agrees that as of the filing of the RCE, certain action was not taken within the specified time frame, and thus, the entry of a period of adjustment of 1480 days is correct (1429 days of adjustment pursuant to 37 CFR 1.702(a)(1) *plus* 51 days of adjustment pursuant to 37 CFR 1.702(a)(2)). At issue is whether patentees should accrue 1267 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 1480 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 1267 days of delay in issuing the patent overlaps with the 1480 days of examination delay under 37 CFR 1.702(a). Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> To the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f)*[1] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant

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[1] Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the application filing date under 35 U.S.C. 111(a), June 26, 2002, and ending on December 14, 2008, the day before the date that the RCE was filed on December 15, 2008.

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a), 1480 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the filing of the RCE. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 1267 days of patent term adjustment had accrued at the time of submission of the RCE for Office issuance of the patent more than three years after the application filing date.

The 1267 days of patent term adjustment under 37 CFR 1.702(b) overlaps with the 1480 days of patent term adjustment under 37 CFR 1.702(a). Entry of both the 1480 days and the 1267 days is neither permitted nor warranted given that 1480 days is the actual number of days issuance of the patent was delayed at the time of submission of the RCE.

Accordingly, at issuance, the Office properly entered 1459 days of patent term adjustment, having considered the 1267 days of Office delay under the three-year pendency provision in conjunction with the 1480 days of delay under 37 CFR 1.702(a) that accrued prior to submission of the RCE and the adjustment of six days under 37 CFR 1.702(a)(4) that accrued subsequent to the submission of the RCE, reduced 27 days for applicant delay. It is noted that the application for patent term adjustment does not acknowledge the adjustment of six days accorded pursuant to 37 CFR 1.702(a)(4), said adjustment having commenced February 18, 2009, the day after the date that is four months after the date that the issue fee payment was received, and ended June 23, 2009, the date that the patent issued. See, 37 CFR 1.703(a)(6).

In view thereof, no adjustment to the patent term will be made.

Receipt is hereby acknowledged of the required $200.00 patent term adjustment application fee.

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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United States Patent and Trademark Office
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P. O. BOX 71355
MARIETTA GA 30007-1355

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OFFICE OF PETITIONS
ON PETITION

In re Application of :
Mullis et al. :
Application No. 10/183,850 :
Filed: June 28, 2002 :
Attorney Docket No. BS02-102 :

This is a decision on the petition under 37 CFR §1.181(a) to withdraw the holding of abandonment, filed September 28, 2006.

The petition to withdraw the holding of abandonment is **GRANTED**.

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due which was mailed May 9, 2006. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on August 10, 2006. A Notice of Abandonment was mailed on September 13, 2006.

Petitioner asserts that the Notice of Allowance and Fee (s) Due mailed on May 9, 2006 was never received. A review of the record indicates the Notice of Allowance and Fee (s) Due was mailed to an incorrect correspondence address. A change of correspondence address and 37 CFR 3.73 (b) statement were received in the Office on August 27, 2004. However the change of correspondence address was not entered. Thus the Notice of Allowance and Fee (s) Due was improperly mailed.

This application is being forwarded to the Office of Patent Publication for further processing. Since petitioner has submitted the issue fee on petition, re-mailing of the Notice of Allowance and Fee (s) Due and the Notice of Allowability is not required.

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

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
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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
10/183,850	06/28/2002	Karen Mullis	BS02-102

CONFIRMATION NO. 2264

45695
WITHERS & KEYS FOR BELL SOUTH
P. O. BOX 71355
MARIETTA, GA 30007-1355

OC000000021270001
OC000000021270001

Date Mailed: 11/17/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/27/2004.

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.

C. Grant

CHARLEMA R GRANT
OP (571) 272-3215

ATTORNEY/APPLICANT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/183,850	06/28/2002	Karen Mullis	BS02-102

CONFIRMATION NO. 2264

28970
PILLSBURY WINTHROP SHAW PITTMAN LLP
P.O. BOX 10500
MCLEAN, VA 22102

OC000000021269941
OC000000021269941

Date Mailed: 11/17/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/27/2004.

- 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).

C. Grant

CHARLEMA R GRANT
OP (571) 272-3215

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/183,850	06/28/2002	Karen Mullis	BS02-102

CONFIRMATION NO. 2264

28970
PILLSBURY WINTHROP SHAW PITTMAN LLP
P.O. BOX 10500
MCLEAN, VA 22102

OC000000021269941
OC000000021269941

Date Mailed: 11/17/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/27/2004.

- 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).

C. Grant

CHARLEMA R GRANT
OP (571) 272-3215

NEW ATTORNEY/AGENT COPY

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3-15-05

Pape

TO SPE OF : ART UNIT 3774

SN 10/183,861

SUBJECT : Request for Certificate of Correction on Patent No.: 6834779

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

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, sho
patent read as shown in the certificate of correction? No new matter should be introduced, r
the scope or meaning of the claims be changed.

Please check Drawing Sts

Thank You For Your Assistance

Certificates of Correction

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
- ☐ Denied — State the reasons for denial below.

Comments:

Michael Mar

SPE

AU 3754

Ai

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and

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)
6,708,497	2004-03-23	10/183,871	2002-06-28	1033275-000374

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	/Scott W. Cummings/	Date (YYYY-MM-DD)	2008-08-11
Name	Scott W. Cummings	Registration Number	41567

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6708497
Issue Date: March 23,2004
Application No. 10183871
Filed: June 28,2002
Attorney Docket No. 033275-374

:

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

:

This is a decision on the electronic petition, filed August 11,2008 ,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 11,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE - 46TH FLOOR
PHILADELPHIA PA 19103

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JUN 14 2006

OFFICE OF PETITIONS

In re Application of	:	
Jarboe et al.	:	DECISION ON PETITION
Application No. 10/183,908	:	TO WITHDRAW
Filed: June 26, 2002	:	FROM RECORD
Attorney Docket No. 20009.0270US01	:	

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 attorneys associated with Customer Number 38952 has been revoked by the assignee of the entire interest 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 applicants.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272- 3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

David Bucci
Petitions Examiner
Office of Petitions

cc:

WITHERS & KEYS FOR BELL SOUTH
P. O. BOX 71355
MARIETTA GA 30007-1355

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WASHINGTON, D.C. 2023
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APR 1 0 2003

Technology Center 2100

Paper No. 3

Josephine Young
KING & SPALDING
191 Peachtree Street, N.E., 45th Floor
Atlanta, GA 30303

In re Application of:)
Dean Jason Justus, et al.)
Application No. 10/183,914) **DECISION ON REQUEST FOR**
Filed: June 26, 2002) **WITHDRAWAL AS ATTORNEY**
For: SYSTEM AND METHOD FOR)
PROVIDING PROGRAM
CREDENTIALS

This is a decision on the Request To Withdraw from Representation filed September 4, 2002.

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

The request filed September 4, 2002 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

for James R. Matthews

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

cc: KING & SPALDING
191 Peachtree Street, N.E. 45th Floor
Atlanta, GA 30303

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PHILADELPHIA, PA 19103

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OFFICE OF PETITIONS

In re Application of	:	
Glenn M. Mahony	:	
Application No. 10/183,922	:	DECISION ON PETITION
Filed: June 25, 2002	:	TO WITHDRAW
Attorney Docket No. BELL-0194/02095	:	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 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 applicant.

This application is being referred to Technology Center AU 2874.

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: LEE & HAYES, PLLC
421 W. RIVERSIDE AVE.
SUITE 500
SPOKANE, WA 99201

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/183,956	06/28/2002	Mark Robert Watkins	1509-329	7241

7590 04/18/2008

HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER	
WEIS, SAMUEL	

ART UNIT	PAPER NUMBER
3693	

NOTIFICATION DATE	DELIVERY MODE
04/18/2008	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Refund Ref: 00300543331
04/21/2008

10/01/2002 MHEKONEN 00000033 10183956
03 FC:1201 -252.00 OP
04 FC:1202 -90.00 OP

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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

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OFFICE OF PETITIONS

In re Application of

Kutenbach, et al. :

Application No. 10/183,966

: DECISION ON PETITION

Filed: June 28, 2002

:

Attorney Docket No. 1500.1065

This is a decision on the petition under 37 CFR 1.137(b), filed January 22, 2007, and in duplicate on February 26, 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 March 13, 2006, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on June 14, 2006.

The amendment filed January 22, 2007, and in duplicate on February 26, 2007, is noted.

The requests for an extension of time filed January 22, 2007, and on February 26, 2007, are noted, however; the requests were made outside the maximum statutory period set for reply and cannot be granted. The amount of $2,040.00 will be refunded, in due course. The petition fee was also charged twice. The amount of $1,500.00 will also be refunded, in due course.

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

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Pre-Grant Publication Division
2231 Crystal Drive, Suite 905
Arlington, VA 22201
www.uspto.gov

April 16, 2004

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Jeff Coulter
Reed Technology and Information Services, Inc.
275 Gibraltar Road
Horsham, PA 19044

RE: **Authorization of Corrections for A9 Publication**

Authorization is given to publish the following original application for the purpose(s) of modifying the specified text, images or other documentation, as an A9 publication to correct publication inaccuracies.

Patent Application Number: 10/183,971
Publication Number Reference: US20030030621A1

Projected A9 Export Date: 4/22/04
Projected Publication Date: 6/24/04

The following errors are referred to on the front page of the A1 Publications of the application.

1) See attachments Palm Intranet Continuity Information concerning the Related U.S. Application Data for (USPTO), "Pub. No.:US20030030621A1", for the purpose of adding continuity information to the Related U.S. Application Data. Those notated sections of the A1 publication are authorized for correction:

Reference: Front page of A1 publication

A. "Publishing the application with only part of the Related U.S. Application Data."

2) In accordance with Page III-37 of the 29Jan02 edition of the DATA PREPARATION MANUAL FOR PRE-GRANT PUBLICATION, the A9/P9 information document will specify the contents of the "See ..." line(s) that will be published under (15) Prior Publication Data on the front page of the A9 or P9 document.

The following information is for correction of US20030030621A1 February 13, 2003
:

See Related U.S. Application Data.

Shelby Pittman
United States Patent and Trademark Office
Pre Grant Publication Division

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 17

COOLEY GODWARD LLP
ATTN: PATENT GROUP
11951 FREEDOM DRIVE SUITE 1700
ONE FREEDOM SQUARE- RESTON TOWN CENTER
RESTON VA 20190-5061

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MAR 19 2004

OFFICE OF PETITIONS

In re Application of :
Rosenberg, et al. :
Application No. 10/183,971 : DECISION ON PETITION
Filed: June 25, 2002 :
Attorney Docket No. IMMR032/03US :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 22, 2003, to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of nonprovisional application 08/092,974.

The petition is **GRANTED**.

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

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

---

[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).

(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 June 25, 2002, and was pending at the time of filing of the instant petition. Reference to the prior filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application(s) under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application(s). In order for the instant application to be entitled to the benefit of the prior-filed application(s), all other requirements under 35 U.S.C. §120 and 37 CFR 1.78 must be met. Accordingly, the examiner will, in due course, consider this benefit claims and determine whether the instant application is entitled to the benefit of the earlier filing date.

As the petition fee at the time of filing the petition was $1,300, the $20 difference between the fee submitted and the fee due has been charged to Deposit Account No. 50-1283, as authorized.

This application is being forwarded to Technology Center 2600 for consideration of the Amendment filed August 22, 2003 and the RCE, Amendment, Terminal Disclaimer, Formal Drawings, and Information Disclosure Statement filed November 26, 2003.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Cliff Congo at (703) 305-0272.

Charles Pearson
Director
Office of Petitions

Enc: Corrected Filing Receipt (2 pages)

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

Mailed: 8/15/05

MEB
Paper Number:

In re application of
Johnson et al.
Serial No. 10/184,015
Filed: June 26, 2002
For: Mist Filtration Arrangement Utilizing Fine Fiber Layer In Contact With Media Having A Pleated Construction And Floor Method

DECISION ON PETITION

This is a response to the PETITION TO WITHDRAW ABANDONMENT, filed November 17, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of June 17, 2004, for failure to timely reply to the Office Action of October 1, 2003 be withdrawn. The petitioner asserts that the response was timely filed by facsimile on March 1, 2004, with the appropriate fees.

DECISION

The instant request is accepted as a proper 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) Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed:
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 and appropriate fees were submitted by facsimile on March 1, 2004 is sufficient. Therefore, the Notice of Abandonment of June 17, 2004 is withdrawn, and the application will be forwarded to for processing and consideration of the papers filed March 1, 2004, by facsimile transmission, and a copy of which is provided as an attachment to the instant petition.

The Petition is **Granted**.

Jacqueline M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Mark DiPietro
Merchant & Gould P.C.
P.O. Box 2903
Minneapolis, Minnesota 55402-0903

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PATENT DEPARTMENT (51851)
KILPATRICK STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101

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OFFICE OF PETITIONS

In re Application of :
Braun, et al. :
Application No. 10/184,041 : ON PETITION
Filed: June 25, 2002 :
Attorney Docket No. IMM093C (51851-281233) :
For: HYBRID CONTROL OF HAPTIC FEEDBACK FOR HOST COMPUTER AND INTERFACE DEVICE

This is a decision on the petition under 37 CFR 1.137(b), filed on November 10, 2005 to revive the above-identified application.

This application became abandoned for failure to timely respond to the final Office action mailed January 25, 2005, which set an extendable three month period for reply. Applicants submitted an amendment after final and a request for a one month extension of time and required fee on May 25, 2005. The amendment after final failed to place this application in *prima facie* condition for allowance, as was explained in the June 14, 2005 Advisory action. Accordingly, this application became abandoned on May 26, 2005. The filing of the present petition precedes the mailing of a Notice of Abandonment.

Applicants have submitted a RCE and required fee and have asked the Office to consider the amendment filed May 25, 2005 as the submission in response to the January 25, 2005 final Office action. In addition, applicants have submitted an acceptable statement of the unintentional nature of the delay in responding to the January 25, 2005 final Office action and the petition fee.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 2629 for consideration of the RCE filed on November 10, 2005.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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DIW 04-05

POSZ LAW GROUP, PLC
12040 SOUTH LAKES DRIVE
SUITE 101
RESTON VA 20191

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APR 15 2005

OFFICE OF PETITIONS

In re Patent No. 6,840,447 :
Issued: 11 January, 2005 :
Application No. 10/184,046 : ON PETITION
Filed: 28 June, 2002 :
Attorney Docket No. 11-101 :

This is a decision on the petition filed on 23 December, 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 a Certificate of Correction.

The petition is **granted**.

The address listed on the petition is different than the correspondence address of record. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this patent will be mailed solely to the address of record.

If petitioner desires to receive future correspondence regarding any Maintenance Fee Reminder which **may** be mailed concerning this patent, a Fee Address should be submitted to Maintenance Fee Division.

Telephone inquires concerning this matter may be directed to the undersigned at 571.272.3213. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at 703.305.8309.

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

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

cc: POSZ & BETHARDS, PLC
11250 ROGER BACON DRIVE, SUITE 10
RESTON VA 20190

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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DIGITAL OPTICS CORPORATION
C/O LEE & MORSE, P.C.
3141 FAIRVIEW PARK DRIVE, SUITE 500
FALLS CHURCH, VA 22042

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JAN 31 2007

OFFICE OF PETITIONS

In re Application of

Morris, et al.

Application No. 10/184,078

Filed: June 28, 2002

Attorney Docket No. DOC.082

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 7, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to respond to the final Office action mailed September 30, 2005, which set a shortened statutory period for reply of three months from its mailing date. A proper response was not received within the allowable period and the application became abandoned on March 1, 2006.

The Request for Continued Examination, filed September 30, 2005, is noted and made of record.

The request for an extension of time within the first month that was made on September 7, 2006, is noted, but cannot be granted as the request was made outside the expiration maximum statutory period for reply and the application was already in an abandoned status. The amount of $60.00 will be refunded, in due course.

The application is being forwarded to Technology Center 2800, GAU 2881 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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SONG K. JUNG
MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON DC 20006

FAX RECEIVED
MAY 26 2005
OFFICE OF PETITIONS

In re Application of :
Yong Sang Byun et al :
Application No. 10/184,096 :
Filed: June 28, 2002 :
Attorney Docket No. 8733.666.00 :

ON PETITION

This is a decision on the petition, filed May 20, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on December 17, 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 2876 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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JUL 14 2006

CENTRAL REEXAMINATION UNIT

McKenna Long & Aldridge LLP
1900 K Street, NW
Washington, DC 20006

In re the patent application of:
Byun, Young Sang
Application No.: 10/184,096
Filed: June 28, 2002
For: System And Method For Manufacturing Liquid Crystal Display Devices

DECISION
DISMISSING
PETITION

This is a decision on the petition filed August 5, 2005 to utilize a bulk paper filing of foreign publication references and an accompanying Information Disclosure Statement (IDS) in the above identified application in other multiple pending applications. The IDS submitted with this petition contains over 200 references, and Petitioner desires these references be considered in 126 other applications listed in Appendix A at pages 3-6 of the petition.

Although the petition does not indicate the applicable rule under which it is submitted, the petition is treated as submitted under 37 C.F.R. § 1.183, because Petitioner requests waiver of rules regarding correspondence and IDS submissions. Accordingly, under 37 C.F.R. § 1.17(f), Petitioner's deposit account 50-0911 has been charged $400.00 as was authorized.

The petition under 37 C.F.R. § 1.183 for entry of the bulk IDS into 127 applications is **DISMISSED** for the reasons set forth below.

Applicable Rules

A. Correspondence

37 C.F.R. 1.4 (b) requires that "each file must be complete in itself, a separate copy of every paper to be filed in a patent, patent file, or other proceeding must be furnished for each file to which the paper pertains, even though the contents of the papers filed in two or more files may be identical."

B. Information Disclosure Statements

37 C.F.R. § 1.98(a)(2) requires a legible copy be submitted for each type of identified citation, including publications pursuant to § 1.98(a)(2)(ii). Papers that are to be part of the permanent Office records in a patent application are to be on either A4 or 8.5 by 11 inch paper. See 37 C.F.R. § 1.52(a)(iii). While there is an exception for previously submitted copies of the reference in another application, the earlier submitted copy can not be used unless the other application is relied upon under 35 U.S.C. 120 for an earlier effective filing date. See 37 C.F.R. § 1.98(d)(1).

Along with reference copies, an IDS filing must comply with several requirements specified in 37 C.F.R. § 1.97. These requirements are dependent upon the time of filing and the status of the application and can include additional fees and/or statements. The timing requirements appear at 37 C.F.R. § 1.97(b)-(d); the statement requirement appears at 37 C.F.R. § 1.97(e).

C. The Standard Required by 37 C.F.R. § 1.183

Under 37 C.F.R. § 1.183, a suspension of the copy requirement under 37 C.F.R. §§ 1.4(b) and 1.98(a)(2) may be made "[i]n an extraordinary situation, when justice requires."

Analysis

At page 2 of the petition, Petitioner has identified the following rationales to justify suspension of the rules: "the purposes of expedience and preservation of both Patent Office and environmental resources." The only stated purpose for desiring such a large submission in multiple application files is that "Assignee has become aware of multiple references that it wishes to have considered by the examiner." The Petitioner has not indicated that awareness of the references resulted from litigation involving any of the 127 applications, or that there is a special significance for any of the references relative to any of the other applications.

In effect, Petitioner is seeking to transfer to the Office the responsibility of supplying a copy of about 200 foreign publications into 126 application files, or to have the examiner in each of the other 126 applications be made aware of the existence of the publications in the instant application and to consult the file of this application.

In addition, Petitioner acknowledges that submission of the IDS in some application files "will require the payment of a fee" and has noted such files in Appendix A. Consequently, Petitioner is also seeking to transfer to the Office the tasks of paying the required fee in each of the other applications that require one. This would, at a minimum, require the Office to place a copy of the payment authorization, and the portion of the IDS acknowledging the need for a fee for individual applications, which originals are present in the instant application, in each of the appropriate other applications.

On balance, the requirements of § 1.183 are not met where Petitioner is merely seeking to transfer duties from itself to the Office.

Moreover, it appears unlikely that each of the 200+ references would meet the materiality requirement of 37 C.F.R. § 1.56 in each of the 127 applications, suggesting that some references might be either cumulative or irrelevant, thereby causing unnecessary delay and wasted Office resources, both clerical and professional. Such probability may be greatly reduced if Petitioner were required to handle each IDS submission for each application individually, and thereby consider each reference/application combination individually when deciding whether each reference should be submitted for a given application.

Summary

The Petition under 37 C.F.R. 1.183 drawn toward submission of one set of references to be placed in 127 applications is dismissed for the reasons discussed above.

Application No. 10/184,096

All correspondence relating to the petition should be directed to:

By U.S. Postal Service Mail:	Office of Patent Legal Administration United States Patent & Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450
By FAX to:	(571) 273-8300 Attn: Office of Patent Legal Administration
By hand:	Office of Patent Legal Administration Randolph Building 401 Delany St. Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to Samuel Broda, Legal Advisor, at (571) 272-7711.

Hiram H. Bernstein
Senior Legal Advisor
Office of Patent Legal Administration

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : November 08,2007

TO SPE OF : ART UNIT 3736

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/184,100 Patent No.: 6805668 B1

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

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

LAMONTE

NEWSOME

Certificates of Correction Branch

703-308-9390 ext. 112

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

_____

_____

_____

_____

SPE, 3735

PAGE 1/2 * RCVD AT 1/11/2008 10:09:14 AM [Eastern Standard Time] * SVR:USPTO-EFXRF-5/33 * DNIS:2709990 * CSID:7033087769 * DURATION (mm-ss):01-26

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

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JUN 14 2005

OFFICE OF PETITIONS

In re Application of :
Sang Sun Shin :
Application No. 10/184,119 : ON PETITION
Filed: June 28, 2002 :
Attorney Docket No. 8733.666.00 :

This is a decision on the petition, filed June 8, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 31, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 3723 for further processing of the request for continued examination under 37 CFR 1.114.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 4

BROWDY AND NEIMARK
624 NINTH STREET NW
SUITE 300
WASHINGTON, DC 20001-5303

COPY MAILED

OCT 1 8 2002

OFFICE OF PETITIONS

In re Application of :
Chiang Hung Lin :
Application No. 10/184,122 : NOTICE
Filed: June 28, 2002 :
Attorney Docket No. LIE186 :

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 2878.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

BROWDY AND NEIMARK
624 NINTH STREET NW
SUITE 300
WASHINGTON, DC 20001-5303

COPY MAILED

OCT 1 8 2002

OFFICE OF PETITIONS

In re Application of :
Chiang Hung Lin :
Application No. 10/184,123 : NOTICE
Filed: June 28, 2002 :
Attorney Docket No. LIEN187 :

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 2878.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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JAN 11 2007

OFFICE OF PETITIONS

PROSKAUER ROSE LLP
PATENT DEPARTMENT
1585 BROADWAY
NEW YORK, NY 10036-8299

In re Application of :
Steven D. Saidenberg, et al. :
Application No. 10/184,124 : ON PETITION
Filed: June 28, 2002 :
Attorney Docket No. 74622-056 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 18, 2006, 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 July 13, 2005. This decision precedes the mailing of a Notice of Abandonment.

The application is revived for consideration of a submission under 37 CFR 1.114 (request for continued examination).

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

The application file is being forwarded to Technology Center AU 2178, for further processing of the request for continued examination under 37 CFR 1.114 filed January 18 2006.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
SUITE 2800
ATLANTA GA 30309

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MAR 1 8 2003

OFFICE OF PETITIONS

In re Application of
Dragov and Schindler
Application No.: 10/184,177
Filed: June 27, 2002
Attorney Docket No: 42278/274794
For: CARRIER FOR PRODUCTION OF CABLE HARNESSES

DECISION ACCORDING STATUS UNDER RULE 47(a)

This is in response to the petition under 37 CFR 1.47(a), filed February 10, 2003 (certificate of mailing dated February 5, 2003.)

The petition is **GRANTED**.

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

A "Notice to File Missing Parts of Non-Provisional Application" ("Notice") was mailed to petitioner on August 5, 2002, indicating that petitioner neglected to file a proper oath or declaration in compliance with 37 CFR 1.63. The Notice set forth a period of reply of two months from the mailing date of the Notice and indicated that extensions of time for reply were available pursuant to 37 CFR 1.136(a).

In response thereto, petitioner filed the instant petition, a request for an extension of time within the fourth month, and a declaration executed by inventor Dragov and evidentiary documents showing that inventor Schindler has constructively refused to join the application.

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

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

Telephone inquiries regarding this matter 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
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ALCATEL USA
INTELLECTUAL PROPERTY DEPARTMENT
3400 W. PLANO PARKWAY, MS LEGL2
PLANO TX 75075

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JAN 16 2007

OFFICE OF PETITIONS

In re Application of :
Timucin Ozugur et al. :
Application No. 10/184,180 : ON PETITION
Filed: June 27, 2002 :
Attorney Docket No.: 1285-0096US :

This is a decision on the petition filed July 25, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed October 18, 2005. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned January 19, 2006. Accordingly, the Notice of Abandonment was mailed May 3, 2006.

The petition fee in the amount of $1500.00 has been applied.

This matter is being referred to Technology Center 2613 for appropriate action on the amendment filed July 25, 2006.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

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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. 5

Eugene E. Renz, Jr., Esquire
Eugene E. Renz, Jr., P.C.
205 North Monroe Street
Post Office Box 2056
Media PA 19063-9056

COPY MAILED

JUN 0 5 2003

OFFICE OF PETITIONS

In re Application of :
STEPHEN MCENTEE :
Application No. 10/184,189 :
Filed: June 27, 2002 :
Attorney Docket No. 21107.PUS :

DECISION DISMISSING
PETITION UNDER
37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(b), filed March 10, 2003 (certificate of mailing March 7, 2003.

The petition is **dismissed**.

Applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should 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 27, 2002, without an executed oath or declaration. On August 8, 2002, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on March 10, 2003 (certificate of mailing March 7, 2003), applicant filed, *inter alia*, the present petition and a declaration.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) proof of irreparable damage. Applicant lacks item (2) as set forth above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 has not been presented. The declaration submitted with the present petition is defective. Specifically, the declaration fails to comply with the following requirements under 37 CFR 1.63: (1) State that the person making the oath or declaration has reviewed and understands the contents of the application, including the claims, as amended by any amendment specifically referred to in the oath or declaration; and, (2) State that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in § 1.56.

For this reason, a new oath or declaration in compliance with 37 CFR 1.63 and signed on behalf of the nonsigning inventor is required. See MPEP 409.03.

To avoid abandonment of the application, applicant must obtained a five-month extension of time to respond. Accordingly, the $985.00 small entity fee for an extension of response within the fifth month will be charged to Deposit Account No. 18-0990, as authorized in the original transmittal.

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

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

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Eugene E. Renz, Jr., Esquire
Eugene E. Renz, Jr., P.C.
205 North Monroe Street
Post Office Box 2056
Media PA 19063-9056

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JUL 17 2003

OFFICE OF PETITIONS

In re Application of	:	
STEPHEN MCENTEE	:	DECISION GRANTING
Application No. 10/184,189	:	PETITION UNDER
Filed: June 27, 2002	:	37 CFR 1.47(b)
Attorney Docket No. 21107.PUS	:	

This is in response to the renewed petition under 37 CFR 1.47(b), filed July 11, 2003.

The petition is **granted**.

Petitioner has shown that Stephen McEntee, 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 Statement of Facts of Robert L. Capoferri establishes that the inventor was presented with the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration. In addition, petitioner has shown that Marble Craters Inc. has a proprietary interest in the above-identified application. The petition fee has been paid. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and demonstrated that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

The application will be forwarded to Technology Center 3600 for examination in due course.

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

Christina L. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Stephen McEntee
189 Middletown Road
Glen Mills, PA 19342

COPY MAILED

JUL 17 2003

OFFICE OF PETITIONS

In re Application of :
STEPHEN MCENTEE :
Application No. 10/184,189 :
Filed: June 27, 2002 :
Attorney Docket No. 21107.PUS :

LETTER

Dear Mr. McEntee:

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(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Christina Tartera Donnell at (703) 306-5589. 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 T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Eugene E. Renz, Jr., Esquire
205 North Monroe Street
Post Office Box 2056
Media PA 19063-9056

UNITED STATES 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

RON JACOBS
LUMEN
2345 YALE STREET
SUITE 200
PALO ALTO CA 94306

COPY MAILED

NOV 10 2004

OFFICE OF PETITIONS

In re Application of
Harvey A. Fishman et al.
Application No. 10/184,210
Filed: June 27, 2002
Attorney Docket No. S00-189/US
Title: ARTIFICIAL SYNAPSE CHIP INTERFACE FOR ELECTRONIC PROSTHETIC RETINA

DECISION ON PETITION
UNDER 37 C.F.R. §1.28(c)

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

37 C.F.R. §1.28(c)(2)(ii) sets forth that the party submitting the deficient payment must include:

(a) Each particular type of fee that was erroneously paid as a small entity, (e.g., basic statutory filing fee, two-month extension of time fee) along with the current fee amount for a non-small entity;
(b) The small entity fee actually paid, and when;
(c) The deficiency owed amount (for each fee erroneously paid); and
(d) The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section.

Petitioner has merely submitted a total deficiency payment without the itemizations required by this portion of the C.F.R.

As such, the request cannot be accepted and the petition must be **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. 1.28(c)". This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should display "Please deliver to Paul Shanoski, c/o Office of Petitions" in a prominent manner.

To help assure prompt and proper attention to your response, please see Request for Alert Concerning Submitted Petitions, 1282 Official Gazette (May 18, 2004) for further information on how to assist the Office in delivering your submission to the correct location. The Petitioner may wish to consider telephoning the undersigned one month after the submission is made to confirm that the documents were properly delivered.

Any renewed petition may be submitted by mail[1], hand-delivery[2], or facsimile[3].

The application file will be retained in the Office of Petitions for two (2) months.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

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

1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

2 Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202.

3 (703) 872-9306 - please note this is a central facsimile number, and as such, there will be a delay in the delivery of the facsimile to the undersigned, which could be as much as one month.

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. None

RON JACOBS
LUMEN
2345 YALE STREET
SUITE 200
PALO ALTO CA 94306

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JAN 10 2005

OFFICE OF PETITIONS

In re Application of
Harvey A. Fishman et al.
Application No. 10/184,210
Filed: June 27, 2002
Attorney Docket No. S00-189/US
Title: ARTIFICIAL SYNAPSE CHIP INTERFACE FOR ELECTRONIC PROSTHETIC RETINA

DECISION ON RENEWED PETITION UNDER 37 C.F.R. §1.28(c)

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

37 C.F.R. §1.28(c)(2)(ii) sets forth that the party submitting the deficient payment must include:

(a) Each particular type of fee that was erroneously paid as a small entity, (e.g., basic statutory filing fee, two-month extension of time fee) along with the current fee amount for a non-small entity;
(b) The small entity fee actually paid, and when;
(c) The deficiency owed amount (for each fee erroneously paid); and
(d) The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section.

The original petition was received on October 12, 2004, and was dismissed via the mailing of a decision on November 10, 2004, for failure to provide the itemization required by 37 C.F.R. §1.28(c).

With the renewed petition, Petitioner has provided the itemization which is required by this portion of the C.F.R.

This notice pertains to 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 C.F.R. §1.28 is hereby accepted. The petition is **GRANTED** accordingly.

This file is being forwarded to Technology Center 1600 for further processing.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

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

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Stanley A. Kim
12697 Headwater Circle
Wellington FL 33414

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AUG 3 1 2006

OFFICE OF PETITIONS

Paper No. 5

In re Application of :
Stanley A. KIM :
Application No. 10/184,222 : ON PETITION
Filed: June 27, 2002 :
Attorney Docket No. SAK001/003 :

This is a decision on the petition, filed November 5, 2004, requesting withdrawal of the holding of abandonment under the provisions of 37 CFR 1.8(b).

The petition is **GRANTED**.

Petitioner asserts that the abandonment be withdrawn as petitioner timely filed a response to the restriction requirement mailed March 10, 2004. Applicant has: (1) informed the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence; (2) supplied an additional copy of the previously mailed or transmitted correspondence and certificate; and (3) included a statement which attests on a personal knowledge basis or the satisfaction of the director to the previously timely mailing or transmission along with a copy of the sending units report confirming transmission. Accordingly, the provisions of 37 CFR 1.8(b) have been met. Furthermore, a review of the record indicates that the original copy of the response is now in the file.

Telephone inquiries concerning this decision should be directed to Thu Nguyen at (571) 272-6051 or in her absence, the undersigned at (571) 272-3217.

The application file is being referred to Technology Center AU 1648 for appropriate action on the concurrently filed amendment.

Brian Hearn
Petitions Examiner
Office of Petitions

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DAFFER MCDANIEL LLP
P.O. BOX 684908
AUSTIN TX 78768

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OFFICE OF PETITIONS

In re Patent No. 6,798,691	:	
Issued : September 28, 2004	:	
Application No. 10/184,232	:	DECISION GRANTING PETITION
Filed: June 28, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 5298-10301 SMS02001	:	

This is a decision on the petition, filed October 11, 2006, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on March 7, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

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

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

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

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

This application matured into Patent No. 6,798,691 on September 28, 2004.

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JAN 27 2009

FELLRS, SNIDER, BLANKENSHIP,BAILEY & TIPPENS, P.C
BANK ONE TOWER
100 NORTH BROADWAY
SUITE 1700
OKLAHOMA CITY, OK 73102-8820
UNITED STATES

In re Application of	:	
Shih Hsiung Hoe et al.	:	DECISION ON PETITION
Application No. 10/184,233	:	UNDER 37 CFR §1.181
Filed: June 28, 2002	:	
Attorney Docket No.: STL10557.00	:	
For: HANDLING DEVICE AND METHOD	:	
FOR LOADING AND UNLOADING	:	
WORK PIECES FROM TRAYS	:	

This is a decision on applicant's petition under 37 CFR 1.181 filed September 17, 2007 requesting that the declarations filed as part of applicant's response of August 16, 2007 be entered.

The petition is **DENIED.**

The record reflects that on May 16, 2007 a final Office action was mailed rejecting claims 1, 3, 5, 7, 9-15 and 19 under 35 U.S.C. 103 (a). On August 16, 2007, applicant filed an amendment that included declarations from six inventors. On August 23, 2007 an advisory action was mailed allowing the entry of the amendment and denying the entry of the declarations.

In the petition filed September 17, 2007 requesting entry of the declarations filed August 16 2007, applicant argues that the refusal to enter the declarations is unwarranted because "the basis of the Advisory Action is irrelevant in this case because the Office reopened prosecution in the answer to Applicant's Appeal Brief" dated September 29, 2006. Furthermore, the applicant argues the correctness of the submission in accordance with 37 C.F.R. 41.39(b)(1). The examiner checked box 9 of the advisory action that relates to rejections under appeal. It is clear, however, that box 8 of the Advisory Action should have been checked as the applicant filed a declaration after Final Rejection but before or on the date of filing a Notice of Appeal.

37 CFR 1.116(e) states: "An affidavit or other evidence submitted after a final rejection or other final action (§ 1.113) in an application or in an *ex parte* reexamination filed under § 1.510, or an action closing prosecution (§ 1.949) in an inter partes reexamination filed under § 1.913 but before or on the same date of filing an appeal (§ 41.31 or § 41.61 of this title), may be admitted upon a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented."

Applicant asserts that he is "permitted to submit an affidavit or other evidence that is relevant to the new grounds of rejection in accordance with 37 CFR 41.39(b)(1)." However, it is noted that no new grounds of rejection was introduced in the final Office action mailed May 16, 2007. In the final Office action, the examiner maintained the rejection of claims 1, 3, 5, 7, 9-15 and 19 from the non-final Office action mailed December 5, 2006. Accordingly, applicant had an opportunity before the final Office action to introduce the declarations. Since the declarations were introduced after final rejection, but before the filing of a Notice of Appeal, without a sufficient reason why the declarations are necessary and were not earlier presented, the declarations were properly denied entry.

Consequently, even though the examiner erred in checking item number 9 of the Advisory Action mailed August 23, 2008, applicant's submission was filed after a final rejection without a showing of good and sufficient reasons why the declarations are necessary and were not earlier presented. Therefore, the submission date of the abovementioned advisory action is irrelevant for the purpose of the instant determination. Consequently, item 8 of the advisory action would still be applicable and the denial of entry is deemed proper.

The petition is **DENIED.**

Katherine Matecki

Katherine Matecki, Director
Patent Technology Center 3600
Telephone No.: (571) 272-5250

sr/snm : 5/5/08

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HOLME, ROBERTS & OWEN, LLP
THOMAS J. ROSSA
299 SO. MAIN ST.,
SUITE 1800
SALT LAKE CITY, UT 84111-2263

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OFFICE OF PETITIONS

In re Application of :
Hinds, Robert Sylvester :
Application No. 10/184,239 : ON PETITION
Filed: June 26, 2002 :
Attorney Docket No. 49204-01010 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 18, 2005, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the non-final Office action mailed November 17, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on February 18, 2005.

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $510.00 extension of time fee submitted with the petition on May 18, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

This matter is being referred to Technology Center 3700 for further examination on the merits.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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CORNING CABLE SYSTEMS LLC
PO BOX 489
HICKORY NC 28603

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DEC 18 2006

OFFICE OF PETITIONS

In re Application of :
David W. Chiasson et al :
Application No. 10/184,243 : DECISION GRANTING PETITION
Filed: June 28, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. C0020 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 15, 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 the issue fee and publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance of March 28, 2006, is accepted as having been unintentionally delayed.

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

This matter is being referred to Patent Publication.

Karen Creasy
Petitions Examiner
Office of Petitions

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,733,074	2004-05-11	10/184,252	2002-06-28	11762.06992

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	/Patrick M. Bergin/	Date (YYYY-MM-DD)	2008-06-09
Name	Patrick M. Bergin	Registration Number	54994

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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In re Patent No. 6733074
Issue Date: May 11,2004
Application No. 10184252
Filed: June 28,2002
Attorney Docket No. 11762.06992

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

This is a decision on the electronic petition, filed June 9,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 9,2008 . 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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SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA, GA 30309

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JUN 25 2004

OFFICE OF PETITIONS

In re Application of :
Scott A. Uhland, et al. :
Application No. 10/184,259 : ON PETITION
Filed: June 28, 2002 :
Attorney Docket No. 17509-0037 :

This is a decision on the petition, filed June 24, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 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 (703) 305-9220.

The application is being referred to Technology Center AU 1725 for further processing of the request for continued examination under 37 CFR 1.114.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

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OFFICE OF PETITIONS

In re Application of :
GREEN, Steven R. et al. :
Application No.: 10/184,279 :
Filing Date: June 27, 2002 :
Docket No.: 158384-2 :
For: THERMOCOUPLE FOR USE IN GASIFICATION PROCESS :

DECISION

ON PETITION UNDER

37 CFR 1.137(b)

This is a decision on Petition Under 37 CFR 1.137(b), filed on October 12, 2004.

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 June 22, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 23, 2004.

Petitioner has met the requirements for revival under 37 CFR 1.137(b). Petitioner submitted the reply in the form of the Issue Fee, paid the petition fee and made the required statement of unintentional delay. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

This application is being referred to the Publishing Division.

Erin P. Thomson

Erin Thomson
Attorney Advisor
PCT Legal Administration

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

Frances Hicks for

Brian Hearn
Petitions Examiner
Office of Petitions

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Paper No. 8

Thomas H. Close
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester, NY 14650-2201

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OFFICE OF PETITIONS

In re Application of	:	
Tina P. Barcley	:	
Application No. 10/184,290	:	ON PETITION
Filed: June 27, 2002	:	
Attorney Docket No. 83963CEB	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 14, 2004, to revive the above-identified application.

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

The Office acknowledges receipt of the instant petition, an amendment, and two (2) sheets of substitute Formal drawings containing Figures 1-4.

The petition is **GRANTED**.

The application file is being forwarded to Technology Center Art Unit 3743, for review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 308-6711.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 7

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

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APR 0 7 2004

OFFICE OF PETITIONS

In re Application of
Steve Cass
Application No. 10/184,292
Filed: June 27, 2002
Attorney Docket No. 2056.001

ON PETITION

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

The petition is GRANTED.

The above-identified application became abandoned for failure to submit substitute drawings in a timely manner in reply to the Notice To File Corrected Application Papers mailed August 7, 2002, which set a shortened statutory period for reply of two(2) months. Accordingly, the application became abandoned on October 8, 2002.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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ROBERTA L. ROBINS
ROBINS & PASTEMAK LLP
1731 EMBARCADERO ROAD
SUITE 230
PALO ALTO, CA 94303

Mail Date: 04/21/2010

Applicant	: Francis J. Carr	: DECISION ON REQUEST FOR
Patent Number	: 7087724	: RECALCULATION of PATENT
Issue Date	: 08/08/2006	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/184,300	: OF WYETH
Filed	: 06/26/2002	:
		:

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

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

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

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

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

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

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

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

or

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

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

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

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

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

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MOSER IP LAW GROUP / APPLIED MATERIALS, INC.
1040 BROAD STREET
2ND FLOOR
SHREWSBURY, NJ 07702

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APR 21 2006
OFFICE OF PETITIONS

In re Patent of :
Nallan et al. :
Patent No. 6,902,681 :
Issue Date: June 7, 2005 : Decision on Petition
Application No. 10/184,301 :
Filing Date: June 26, 2002 :
Attorney Docket No. APPM/007366 :

This is a decision in response to the paper filed December 6, 2005, which is being treated as a request under 37 CFR 3.81 to accept the correction of the assignee data on the front page of the above-identified patent.

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

Effective June 25, 2004, the practice relating to issuance of a patent to an assignee was modified by requiring that, after payment of an issue fee, a request for a certificate of correction must be filed in order to obtain issuance of the patent to an assignee. Thus, where the assignment data is submitted after payment of the issue fee, the patent document will not include the assignment information. Therefore, as 37 CFR 3.81(b) was modified to provide for issuance of the patent to the assignee, the practice of waiving the rule (37 CFR 3.81(a)) under 37 CFR 1.183 is longer necessary and has been eliminated.

37 CFR 3.81(b), as modified, reads:

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

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

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

The requirement set forth above have been met. Therefore, the request is granted.

The fee of $100 for the Certificate of Correction and the fee of $130 for the request under 37 CFR 3.81 have been charged to petitioner's deposit account.

The Certificates of Correction Branch will be informed of the instant decision and will issue the requested Certificate of Correction in due course.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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Paper No. 8

JONATHAN O OWENS
HAVERSTOCK & OWENS LLP
162 NORTH WOLFE ROAD
SUNNYVALE CA 94086

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JUN 2 0 2003

OFFICE OF PETITIONS

In re Application of :
Johnson, et al. :
Application No. 10/184,303 : ON PETITION
Filed: June 26, 2002 :
Attorney Docket No. WAGIC-01001 :

This is a decision on the petition to under 37 CFR 1.181, filed May 27, 2003, which is being treated as a petition to revive under 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application was filed on June 26, 2002 with a nonpublication request and certification under 35 U.S.C. 122(b)(2)(B)(i). Petitioner states that the instant nonprovisional application is the subject of a PCT international application filed on August 13, 2002. However, the US Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the PCT application.

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

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

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

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

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

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

The application is being forwarded to Technology Center 3700 to await for applicant's reply to the Office action mailed May 14, 2003.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Date Mailed : 9-8-06

Patent No.: 7,015,511
Patent Issued : March 21, 2006
Inventor(s) : Shiro Sakai, et. al.
Title: GALLIUM NITRIDE-BASEDLIGHT EMITTING DEVICE AND METHOD FOR MANUFACTURING THE SAME
Docket No.: 08228/026001

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.322.

The alleged error regarding to References Cited will not be added because a line was drawn through the citation and was not in conformance with the MPEP section 609 and not considered by the examiner.

In view of the foregoing, your request in this matter is hereby denied. However, further consideration will be given upon receipt of a request for reconsideration directed to Decisions & Certificates of Correction Branch.

Eva James
For Cecelia B. Newman
Certificate of Correction Branch
(703) 308-9390 ext. 124 or ext. 102

Jonathan P. Osha
Osha-Liang LLP
1221 McKinney St., Suite 2800
Houston, Texas 77010

ej

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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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MAR 13 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Stetina, Brunda, Garred & Brucker
75 Enterprise, Suite 250
Aliso Viejo, CA 92656

In re application of
Phillip Andrew Greubel
Application No. 10/184,308
Filed: June 27, 2002
For: COIL HOSE SYSTEM

DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the petition under 37 C.F.R § 1.102(d) filed January 8, 2003 to make the above-identified application special.

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

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

The petition filed January 8, 2003 includes all of the requirements above and, therefore, the petition is **GRANTED**.

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

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

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

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

KJD/tpl : 2/28/03

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 7/16/08

Paper No.: —

TO SPE OF : ART UNIT 2814

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/184328 Patent No.: 6858906 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: _____

SPE 2814 Art Unit

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SALT LAKE CITY, UT 84110

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JUN 2 0 2005

OFFICE OF PETITIONS

In re Application of :
Tongbi Jiang, et al :
Application No. 10/184,340 : ON PETITION
Filed: June 27, 2002 :
Attorney Docket No. 2269-4886US :

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 **DISMISSED as moot**.

Unfortunately, the petition was not referred to the appropriate official for a decision until after June 14, 2005, the date upon which the above-identified application issued as U.S. Patent No. 6,906,415.

The inconvenience caused petitioner in this matter is sincerely regretted. However, petitioner's attention is directed to 37 CFR 1.313(d) which states that "A petition under this section [37 CFR 1.313(c)] will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**." In this case, the petition was not received in the Office of Petitions for consideration until June 17, 2005.

While petitions to withdraw from issue may be mailed to the Commissioner of Patents, as was done in this case, applicants were cautioned to hand carry or fax petitions to withdraw from issue directly to the Office of Petitions to allow sufficient time to process the petition. *(See Revised Procedures for Papers Requiring Immediate Attention (Hand-Carried and Facsimile Transmissions), 1279 Off. Gaz. Pat. Office 149 (Feb. 24, 2004); Revised Procedures for Papers Requiring Immediate Attention, 1280 Off. Gaz. Pat. Office 917 (March 23, 2004).*

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of the instant application into a patent on June 14, 2005. The RCE and the information disclosure statement (IDS) will be placed in the file of the above-identified

application without further consideration. See 37 CFR 1.97(I). The $790 RCE filing fee paid on May 31, 2005 is being credited to counsel's deposit account.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20071015

DATE : October 15, 2007

TO SPE OF : ART UNIT 2818

SUBJECT : Request for Certificate of Correction on Patent No.: 6,906,415

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:

Steven Loke

SPE: Steven Loke **Art Unit** 2818

UNITED STATES PATENT AND TRADEMARK OFFICE

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FROST BROWN TODD LLC
2200 PNC CENTER
201 E. FIFTH STREET
CINCINNATI, OH 45202-4182

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JUN 15 2006

OFFICE OF PETITIONS

In re Application of :
John Noden :
Application No. 10/184,381 : ON PETITION
Filed: June 27, 2002 :
Attorney Docket No.: 1160215/500357 :

This is a decision on the petition filed March 29, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed March 9, 2005. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned June 10, 2005. Accordingly, a Notice of Abandonment was mailed November 18, 2005.

This matter is being referred to Technology Center 2194 for appropriate action on the amendment filed March 29, 2006.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

AK

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/184,390	06/27/2002	Leonard E. Black	287390600001	4392

7590 10/24/2003

EXAMINER	
TRUONG, BAO Q	

ART UNIT	PAPER NUMBER
2875	

DATE MAILED: 10/24/2003

Sam Cini
Signage Systems
2677 Drew Road
Mississauga, ON L4T 3X1
CANADA

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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OFFICE OF DIRECTOR
GROUP

Paper No. 5

Stephen D. Scanlon
JONES, DAY, REAVIS & POGUE
North Point, 901 Lakeside Avenue
Cleveland OH 44114

In re Application of:
Leonard E. Black
Serial No.: 10/184,390
Filed: June 27, 2002
Attorney Docket No.: **287390600001**

DECISION ON REQUEST
TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed August 15, 2003.

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

The request meets all the above stated requirements. The request was signed by Stephen D. Scanlon, on behalf of himself and all the attorneys/agents of record.

The request is **APPROVED**. There are no attorneys of record at this time.

All future communications from the Office will be directed to Sam Cini, at the below address until otherwise notified by applicant. The Office action mailed on October 9, 2003, will be re-mailed to the address below, and the period for response reset.

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

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

cc: Sam Cini
Signage Systems
2677 Drew Road
Mississauga, Ontario L4T 3X1
Canada

[redacted]

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PERKINS COIE LLP/MSFT
P.O. BOX 1247
SEATTLE, WA 98111-1247

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OFFICE OF PETITIONS

In re Application of :
We-Ying MA et al. :
Application No. 10/184,438 : DECISION ON PETITION
Filed: June 28, 2002 :
Attorney Docket No. 418268752US :

This is a decision on the petition, filed December 12, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed March 28, 2008, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on December 15, 2008.

Petitioner asserts that the Office action dated March 28, 2008 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records 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 must be attached to and referenced in the practitioner's statement.

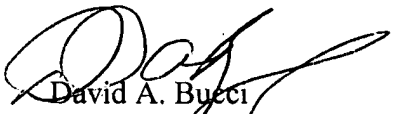
See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

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

This application is being referred to the Technology Center technical support staff of Art Unit 2446 for re-mailing the Office action of March 28, 2008. The period for reply will run from the mailing date of the Office action.

Telephone inquiries concerning this decision should be directed to Ella Colbert at 571-272-6051 or in her absence, the undersigned at 571-272-7099.



David A. Bucci
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ~~7~~ 7092005

DATE : 6/28/2005

TO SPE OF : ART UNIT 3700(3739)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,814,729

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

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-922
Palm location **7580** - Tel. No. 305-8309

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

Ernest C. White, LIE305-8339
Certificates of Correction Branch

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments:

changes to column 11 and column 12, lines 1 and 2 are not approved because they affect the scope of the claims

SPE

3739
Art Unit

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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 089333-7003

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OFFICE OF PETITIONS

In re Application of :
Kathleen SIEGWART et al. :
Application No. 10/184,490 : ON PETITION
Filed: June 28, 2002 :
Attorney Docket No. J&J-2120 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 11, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 29, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 30, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $1500; and the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of January 29, 2004 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099 or in his absence, the undersigned at (571) 272-3217.

The application file is being referred to Technology Center AU 3761 for appropriate action on the concurrently filed amendment.

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MBHB/TRADING TECHNOLOGIES
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO IL 60606

MAILED

FEB 05 2010

OFFICE OF PETITIONS

In re Application
Scott F. Singer
Application No. 10/184,498
Filed: June 26, 2002
Attorney Docket No. **02-452**

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT filed December 10, 2009. Applicant requests that the determination of patent term adjustment be corrected from 1233 days to 1702 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 court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).[1]

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 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 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the of the patent term adjustment concerning those regulations 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

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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).

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 such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[2]

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

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

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

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

/Kery A. Fries/

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

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[2] For example, if applicants dispute 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 applicants 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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Nov. 21, 2005

TO SPE OF : ART UNIT 2819 (*Michael Tokar*)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,747,583

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

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.
Please see the drawing changes. Your denial or approval decision is needed below.

sp STACY POWELL

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 x120

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

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

Comments:

Approved as requested

Reginald Ramie 2819

SPE **Art Unit**

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Paper No. 7

Kenneth R. Backus, Jr.
CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO CA 94303

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APR 22 2004

TECHNOLOGY CENTER 2800
SPECIAL PROGRAM CENTER

In re Application of:
Nickolai Odilavadze et al.
Serial No.: 10/184,562
Filed: June 27, 2003
Attorney Docket No.: PA2405US

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 April 14, 2003.

The request is MOOT in view of the Revocation of previous power of attorneys filed May 2, 2003.

Kenneth R. Backus signed the request on behalf of all attorneys of record who are associated with customer No. 22830.

The assignee filed a revocation of previous power of attorneys and appointed Andrew D. Fortney as attorney of record on May 2, 2003[1]. The revocation is proper and has been processed.

The correspondence address of record has been changed and the new correspondence address of the new attorney of record is the address indicated below.

[1] A Change of Address to a Customer Number was received on April 14, 2004 and has been processed.

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: LAW OFFICES OF ANDREW D. FORTNEY, P.C.
7257 N. MAPLE AVENUE
BLDG. D, SUITE #107
FRESNO, CA 93720

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 5, 2006

TO SPE OF : ART UNIT 2612 (S.P.E. Wendy Garber or P.E. Phung Nguyen)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/184573 Patent No.: 6,972,698

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**.

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: _____

_____

_____

_____

_____

_____ 2612

SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 5, 2006

TO SPE OF : ART UNIT 2612 (S.P.E. Wendy Garber or P.E. Phung Nguyen)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/184573 Patent No.: 6,972,698

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**.

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: _____

SPE

2612

Art Unit

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Paper No. 11

Larson & Associates, P.C.
221 East Church Street
Frederick, MD 21701

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MAY 2 0 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Brian Geoffrey Lucas, et. al. :
Application No. 10/184,583 :
Filed: June 28, 2002 :
Attorney Docket No. CML00107D :

This is a decision on the petition under 37 CFR 1.182, filed May 4, 2004, to change the order of the names of the inventors.

The petition is **GRANTED**.

In the instant petition, petitioner requests that the Office change the record list Brian Geoffrey Lucas as the first named inventor. However, petitioner failed to list the order in which the other inventors should be named. Therefore, the undersigned contacted petitioner, and spoke with Brian Loy for Renee Michelle Larson, who confirmed that the order of the names of inventors be changed as follows:

1. Brian Geoffrey Lucas
2. Philip E. May
3. Kent Donald Moat
4. Raymond B. Essick, IV
5. Silviu Chiricescu
6. James M. Norris
7. Michael Allen Schuette
8. Ali Saidi

The above-identified application is being forwarded to Technology Center Art Unit 2183, to await the response to the non-final Office action mailed April 22, 2004.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (703) 308-6711.

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

Frances Hicks
Lead Petitions Examiner

Enclosure: Corrected Filing Receipt

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MAR 14 2007

Technology Center 2100

Michael C. Martensen
HOGAN & HARTSON LLP
One Tabor Center
1200 17th Street, Suite 1500
Denver, Colorado 80202

In re Application of:
Richard MAREJKA et al
Appl. No.: 10/184,605
Filed: June 27, 2002
For: SELF-MONITORING AND TRENDING SERVICE SYSTEM WITH A CASCADED PIPELINE WITH A UNIQUE DATA STORAGE AND RETRIEVAL STRUCTURES

DECISION ON PETITION UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR § 1.59(b), filed on 09 February 2007, to expunge information submitted pursuant to MPEP § 724.02.

The petition is **DISMISSED**.

Petitioner requests that the information submitted on 09 February 2007 be expunged from the record if found not to be important to a reasonable examiner in deciding whether to allow the application to issue as a patent. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The petition is premature because the application has not been allowed or abandoned. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the petition to expunge must be dismissed at this time.

During prosecution on the merits, the examiner will determine whether or not the information submitted on 09 February 2007 is considered to be "material." Once prosecution on the merits is closed, applicant may re-submit a petition to expunge the information. No further fee is required for such a second submission of a petition under 37 CFR § 1.59 to expunge information. If the information is not considered by the examiner to be material, the information will be returned to applicant.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613

Vincent N. Trans, QAS
Technology Center 2100
Computer Architecture, Software, and
Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Paper No.4

BRYAN CAVE LLP
245 Park Avenue
New York, NY 10167

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DEC 13 2002

OFFICE OF PETITIONS

In re Application of
Albizzati et al.
Application No.10/184,679
Filed: June 26, 2002
Attorney Docket No.:C15488/131994

ON PETITION

This is a decision on the petition filed September 3, 2002, requesting in effect, that a Notice of Omitted Item(s) in a Nonprovisional Application ("Notice") mailed August 1, 2002 be withdrawn.

The application was filed on June 26, 2002. However, on August 1, 2002, the Office of Initial Patent Examination (OIPE) mailed the Notice stating that the application had been accorded a filing date of June 26, 2002 but pages 8 and 45 of the specification appeared to have been omitted.

In response, the present petition was filed wherein Petitioner contends pages 8 and 45 was filed on June 26, 2002. In support, the petition is accompanied by a copy of applicant's return postcard which lists 75 pages of specification. The petition is further accompanied by a copy of pages 8 and 45 of the specification.

Applicant's postcard receipt is prima facie evidence that 75 pages of specifications were received on June 26, 2002, but page 8 and 45 of the specification is 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 pages 8 and 45 pages of specification were received on June 26, 2002, as shown in counsel's file, and later misplaced in the office.

The petition is Granted. The $130.00 petition fee will be credited to Deposit Account No. 02-4467.

Since the original pages 8 and 45 of the specification cannot be located in the Office, pages 8 and 45 of the specification supplied on September 3, 2002, will be used for processing and examination purposes.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of June 26, 2002, using the substitute pages 8 and 45 of the specification 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

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LORD CORPORATION
111 LORD DRIVE
P.O. BOX 8012
CARY, NC 27512

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OFFICE OF PETITIONS

In re Application of :
Mark B. Wilson, et. al. :
Application No. 10/184,690 : ON PETITION
Filed: June 28, 2002 :
Attorney Docket No. IR-3233(EA) :

This is a decision on the petition under 37 CFR 1.137(b), filed November 5, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed May 21, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned after midnight August 21, 2004.

In response, petitioner submitted with the instant petition an authorization to charge the listed deposit account $1,370 for the petition to revive fee, $1,370 for the issue fee, and $300 for the publication fee. As authorized, the above fees have been charged to petitioner's deposit account.

The petition is **GRANTED**.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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DELPHI TECHNOLOGIES, INC.
M/C 480-410-202
P.O. BOX 5052
TROY MI 48007

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OFFICE OF PETITIONS

In re Application of :
Ray G. Armstrong et al :
Application No. 10/184,695 : ON PETITION
Filed: June 27, 2002 :
Attorney Docket No. 1473-P3146-001 :

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

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on September 27, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3651 will consider the request for continued examination under 37 CFR 1.114.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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SAMUELS GAUTHIER & STEVENS LLP
225 FRANKLIN ST
SUITE 3300
BOSTON MA 02110

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OFFICE OF PETITIONS

In re Application of
Robert Mahoney :
Application No. 10/184,704 : DECISION ON
Filed: June 28, 2002 : PETITION
Attorney Docket No. 5361CON :

This is in response to the petition under 37 CFR 1.137(b), filed December 9, 2005, to revive the above-identified application.

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

The above-identified application became abandoned for failure to timely respond to the non-final Office action mailed September 16, 2004. This Office action set a shortened statutory period for reply of three months. No extensions of time under 37 CFR 1.136(a) were obtained. No reply having been received, the above-identified application became abandoned on December 17, 2004. The Office mailed a Notice of Abandonment on October 3, 2005.

With the instant petition, petitioner paid the petition fee, made a statement of unintentional delay[1], and submitted the required reply in the form of an amendment.

---

[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. 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). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The matter is being forwarded to Group Art Unit 1713 for consideration of the amendment filed December 9, 2005.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

Chiron Corporation
Intellectual Property
P.O. Box 8097
Emeryville, CA 94662-8097

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JAN 20 2006

OFFICE OF PETITIONS

In re Application of :
Martha Whitehouse : DECISION ON PETITION
Application No. 10/184,708 :
Filed: June 28, 2002 :
Atty Docket No. PP01543.208 :
(35784/247580 :

This is a decision on the "PETITION UNDER 37 C.F.R. § 1.78(a)(6) TO ACCEPT AN UNINTENTIONALLY DELAYED CLAIM FOR THE BENEFIT OF PRIOR-FILED PROVISIONAL APPLICATIONS" filed October 7, 2005.

The petition is **DISMISSED**.

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

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 the 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:

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

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

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

The instant pending nonprovisional application filed on June 28, 2002, is a continuation of application No. 09/385,114, which was filed on August 27, 1999 (now U.S. Patent No. 6,440,934 issued August 27, 2002), which is within twelve months of the filing date of the prior-filed applications for which priority is now claimed, Application No. 60/104,102 and 60/104,103, both filed October 13, 1998. The petition includes payment of the surcharge set forth in § 1.17(t)(now $1,370), as well as, the required statement of unintentional delay. Moreover, a reference to the prior-filed provisional applications has been included in an amendment to the first sentence of the specification following the title.

However, the amendment is not acceptable as drafted because it improperly incorporates by reference the prior-filed applications. Petitioner's attention is directed to Dart Industries v. Banner, 636 F. 2d 684, 207 USPQ273 (C.A.D.C. 1980), where the court drew a distinction between the permissible 35 USC § 120 statement, and the impermissible introduction of new matter by way of incorporation by reference in a 35 USC 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 to the specification present on the filing date of the application. For applications filed prior to September 21, 2004, the incorporation by reference statement may also appear in a transmittal letter present on the filing date of the application. *See also* MPEP 201.06(c) and 608.04(b).

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.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By fax:	(571) 273-8300 ATTN: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Charles Pearson
Director
Office of Petitions

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[1] *Note* 37 CFR 1.121.

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Chiron Corporation
Intellectual Property
P.O. Box 8097
Emeryville, CA 94662-8097

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MAY 19 2006

OFFICE OF PETITIONS

In re Application of :
Martha Whitehouse : DECISION ON PETITION
Application No. 10/184,708 :
Filed: June 28, 2002 :
Atty Docket No. PP01543.208 :
(35784/247580) :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 C.F.R. § 1.78(a)(6) TO ACCEPT AN UNINTENTIONALLY DELAYED CLAIM FOR THE BENEFIT OF PRIOR-FILED PROVISIONAL APPLICATIONS" filed February 22, 2006. By decision mailed January 20, 2006, the initial petition filed October 7, 2005 was dismissed.

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 the 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:

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

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

(iii) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date

> the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application filed on June 28, 2002, is a continuation of application No. 09/385,114, which was filed on August 27, 1999 (now U.S. Patent No. 6,440,934 issued August 27, 2002), which is within twelve months of the filing date of the prior-filed applications for which priority is now claimed, Application No. 60/104,102 and 60/104,103, both filed October 13, 1998. The initial petition filed October 7, 2005 included payment of the surcharge set forth in § 1.17(t)(then $1,370), as well as, the required statement of unintentional delay. Moreover, a reference to the prior-filed provisional applications was included in an amendment to the first sentence of the specification following the title. However, the petition was dismissed because the amendment provided improperly incorporated by reference the prior-filed applications.

On instant renewed petition, petitioner submitted a substitute amendment deleting, to the extent improper, the incorporation by reference statement. The amendment has been reviewed and found acceptable.

Accordingly, now having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. 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 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 these benefit claims and determine whether the instant application is entitled to the benefit of the earlier filing date.

This application is being forwarded to Technology Center Art Unit 1653 for consideration by the Examiner of applicant's claim under 35 U.S.C. § 119, and 37 CFR 1.78(a)(5) and (6) for the benefit of priority to the prior-filed application.

Receipt of the substitute declaration filed February 22, 2006, is acknowledged.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Charles Pearson
Director
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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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
10/184,708	06/28/2002	1656	828	PP01543.208 (35784/247580	5	14	3

CONFIRMATION NO. 3825

Chiron Corporation
Intellectual Property
P.O. Box 8097
Emeryville, CA 94662-8097

CORRECTED FILING RECEIPT

OC0000000018867336

OC000000018867336

Date Mailed: 05/19/2006

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

Applicant(s)

Martha Jo Whitehouse, San Francisco, CA;

Assignment For Published Patent Application

Chiron Corporation, Emeryville, CA

Power of Attorney:

Leslie Henry--45714

Domestic Priority data as claimed by applicant

This application is a CON of 09/385,114 08/27/1999 PAT 6,440,934
which claims benefit of 60/104,102 10/13/1998
and claims benefit of 60/104,103 10/13/1998

Foreign Applications **Acceptable Request to Retrieve Priority Application Received?**

If Required, Foreign Filing License Granted: 07/23/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/184,708

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Angiogenically effective unit dose of FGF-2 and method of use

Preliminary Class

514

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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BRADLEY T. SAKO
WALKER & SAKO, LLP
SUITE 235
300 SOUTH FIRST STREET
SAN JOSE, CA 95113

COPY MAILED

MAR 29 2005

OFFICE OF PETITIONS

In re Application of :
Krishnaswamy Ramkumar, Manuj :
Rathor, Biju Parameshwaran and : DECISION GRANTING PETITION
Loren Lancaster : UNDER 37 CFR 1.47(a)
Application No. 10/184,715 :
Filed: June 28, 2002
Title: METHOD OF MANUFACTURING
AN OXIDE-NITRIDE-OXIDE (ONO)
DIELECTIC FOR SONOS-TYPE DEVICES

This is in response to the "Petition Under 37 CFR 1.47(a)," filed October 15, 2002 (Certificate of Mailing date: October 7, 2002). The petition was recently forwarded to this office for consideration.

The petition is **granted**.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being forwarded to Publishing Division.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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LOREN LANCASTER
6966 LOS REYES CIRCLE
COLORADO SPRINGS, CO 80918

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MAR 29 2005

OFFICE OF PETITIONS

In re Application of
Krishnaswamy Ramkumar, Manuj Rathor, Biju Parameshwaran
and Loren Lancaster
Application No. 10/184,715
Filed: June 28, 2002
Title: METHOD OF MANUFACTURING AN OXIDE-NITRIDE-OXIDE (ONO) DIELECTIC FOR SONOS-TYPE DEVICES

Dear LOREN LANCASTER:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571)272-3228. Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

BRADLEY T. SAKO
WALKER & SAKO, LLP
SUITE 235
300 SOUTH FIRST STREET
SAN JOSE, CA 95113

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Paper No. 8

Mark J. Young
50 N. Laura Street
Suite 3300
Jacksonville, FL 32202

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MAR 17 2004

OFFICE OF PETITIONS

In re Application of
Dale C. Carson
Application No. 10/184,719
Filed: June 28, 2002
Attorney Docket No. 2036538-0001

ON PETITION

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

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 30, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned after midnight October 30, 2003.

In response to the non-final Office action, petitioner submitted with the instant petition $665 for the petition to revive fee, a reply/amendment and $475 for a three (3) months extension of time.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $475 extension of time submitted with the petition on March 11, 2004, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Since the requirements for a grantable petition have been met, the petition is **GRANTED**.

Since the applicant signed the instant petition, a courtesy copy of this decision is being mailed to the applicant, Dale C. Carson, using the address listed on the instant petition.

The application file is being forwarded to Technology Center Art Unit 3617.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (703) 308-6711.

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

CC: Dale C. Carson
P.O. Box 380013
Jacksonville, FL 32205

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WASHINGTON, D.C. 20231
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Paper No. 4

DAVID B. RITCHIE
THELEN REID & PRIEST
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SAN JOSE CA 95164

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DEC 13 2002

OFFICE OF PETITIONS

In re Application of
Song, et al.
Application No. 10/184,731
Filed: June 27, 2002
Attorney Docket No. KIMC-010

: DECISION GRANTING
: PETITION

This is a decision on the petition under 37 CFR 1.182, filed September 16, 2002 (certificate of mailing date September 10, 2002), requesting that the English language specification, claims, and drawings filed on June 27, 2002 be disregarded and in its place, the copy of a Korean language priority document, Korean application No. 2001/84958, be used as the application papers.

The application was deposited on June 27, 2002. On August 8, 2002, the Office of Initial Patent Examination (OIPE) mailed a Notice of Omitted Items in a Nonprovisional Application stating that the application had been accorded a filing date of June 27, 2002, but that it appeared to be missing drawing figures 3a, 3b, and 7d.

In response, the present petition was filed wherein petitioners state that the English language translation of Korean application No. 2000-195426 was incorrect and argue that the certified foreign priority document contained the required specification, claims in drawings, albeit in a foreign language, to meet the requirements for a filing date. Petitioners desire to switch application papers and assert that they are entitled to a June 27, 2002 filing date using the Korean document as the application.

Petitioners did file Korean application No. 2000-195426 as a foreign priority document on June 27, 2002. Pursuant to 37 CFR 1.52(d), a nonprovisional application may be in a language other than English. This foreign application contained a specification, claims and drawings and is a complete application under 37 CFR 1.53(b).

Accordingly, the petition is **GRANTED**.

However, the English translation of the priority document submitted with the instant petition will not be used as for initial processing purposes. Petitioners will be required to file a certified complete and accurate translation of the Japanese application, as is required by 37 CFR

1.52(d)(1)[1], a request that the English translation be used as the copy for **examination purposes**, the $130.00 processing fee for the submission of the English translation, and a new declaration signed by both inventors, executing the English translation.

This application is being returned to the Office of Initial Patent Examination for further processing with a filing date of June 27, 2002, using the Korean priority document, Korean application No. 2001/84958, as the application papers. OIPE will mail a Notice requiring the items listed in the preceding paragraph.

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

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

[1] The English translation submitted with the instant petition does not contain a statement that the translation is literal and accurate. MPEP 608.01.

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MOTOROLA, INC.
1303 E. ALGONQUIN ROAD
SCHAUMBURG, IL 60196

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APR 18 2005

OFFICE OF PETITIONS

In re Application of :
Robert Stengel et al :
Application No. 10/184,742 : ON PETITION
Filed: June 28, 2002 :
Attorney Docket No. CM02977J :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed May 20, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on August 21, 2004.

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

This matter is being referred to Patent Publication.

Karen Creasy

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

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Continental Automotives Systems, Inc.
Patents & Licenses
21440 WEST LAKE COOK ROAD
Floor 7
DEER PARK, IL 60010

Mail Date: 04/21/2010

Applicant	: Jurgen Reinold	: DECISION ON REQUEST FOR
Patent Number	: 7600114	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/184,746	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/28/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **918** 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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KNOXVILLE, TN 37950-1295

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JUN 3 0 2004

OFFICE OF PETITIONS

In re Application of :
Lawrence P. Leibowitz, et al. :
Application No. 10/184,769 : ON PETITION
Filed: June 28, 2002 :
Attorney Docket No. 27205.00 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 18, 2004 and supplemented on June 29, 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 February 5, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on May 6, 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.

The application file is being forwarded to the Publishing Division 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

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Paper No. None

VAN PELT, YI & JAMES LLP AND APPLE COMPUTER, INC.
10050 N. FOOTHILL BOULEVARD
SUITE 200
CUPERTINO CA 95014

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MAR 31 2006

OFFICE OF PETITIONS

In re Application of
Paul Marcos et al.
Application No. 10/184,778
Filed: June 27, 2002
Attorney Docket Number: P2132USC2
Title: METHOD AND APPARATUS FOR BINDING USER INTERFACE OBJECTS TO APPLICATION OBJECTS

DECISION ON PETITION UNDER 37 C.F.R. §1.78(a)(3)

This is a decision on the petition under 37 CFR §1.78(a)(3), filed January 30, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed non-provisional applications 09/844,496, filed April 25, 2001 and 08/834,157, filed April 14, 1997.

The petition is **DISMISSED AS MOOT**.

The petition is accompanied by an amendment to the first sentence of the specification following the title to include a reference to the prior-filed applications. While a reference to the prior-filed nonprovisional applications was not included in an Application Data Sheet (ADS) or in the first sentence of the specification following the title as required by the rules, a reference, nevertheless, was made in the transmittal letter and oath filed with the application.

Where a claim for priority under 37 CFR § 1.78(a)(3) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR § 1.78(a)(2)(ii). On the other hand, if the USPTO does not note the claim for priority to the prior-filed applications set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR § 1.78(a)(3)[1]. In the present case, the Office noted

1 *Note* MPEP 201.11 (III)(D), pages 200-59 and 200-60 (Rev. 2. May 2004) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

the claim for priority to the prior-filed applications in the transmittal letter and oath filed with the application, as shown by their inclusion on the filing receipt.

In view of the above, the $1370 petition fee submitted is unnecessary and will be refunded to Petitioner's deposit account in due course.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Frances Hicks
Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

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INTELLECTUAL PROPERTY / TECHNOLOGY LAW
PO BOX 14329
RESEARCH TRIANGLE PARK, NC 27709

Mail Date: 04/21/2010

Applicant	: Leigh S. Fultz	: DECISION ON REQUEST FOR
Patent Number	: 7620593	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/184,780	: 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 **1655** 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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OCT 14 2004

In re Application of :
Akira Matsuguchi *et al* :
Application No. 10/184,801 : DECISION ON PETITION
Filed: July 1, 2002 :
Attorney Docket No. 224730US3 :

This is a decision on the petition filed on September 9, 2004 invoking supervisory authority under 37 CFR 1.181. Petitioner requests that the examiner be instructed to consider the Information Disclosure Statement (IDS) that was filed on July 27, 2004. No fee is required for the petition.

The petition is granted.

A review of the record shows that on June 28, 2004, this application was allowed and a Notice of Allowance was mailed to petitioners together with an attached Notice of Allowability. On July 27, 2004, petitioners filed on (IDS). The issue fee and publication fee were timely paid on September 9, 2004. The record does not reflect that the examiner ever considered the IDS. In fact, no entry in the PALM system has been made reflecting that the IDS was filed.

Because the IDS was filed prior to payment of the issue fee, petitioners are entitled to have the IDS considered by the examiner. See 37 CFR 1.97(d) and MPEP § 609, subsection B(3). Accordingly, the Supervisory Patent Examiner of Art Unit 3728 will instruct the examiner to **immediately** review the IDS filed on July 27, 2004, and to have the results of such review reflected in a supplemental Notice of Allowability. The examiner will also have the IDS in question entered in the PALM system.

The application remains pending in the Office of Patent Publication for processing into a patent, the issue and publication fees having been paid.

The Supervisory Patent Examiner of Patent Examining Art Unit 3728 will be notified of this decision, and will inform the assigned examiner to take action not inconsistent there with this decision.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Oblon, Spivak, McClelland, Maier &
Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

WADDEY & PATTERSON, P.C.
1600 DIVISION STREET, SUITE 500
NASHVILLE TN 37203

In re Application of :
Gough, et al. :
Application No.: 10/184,816 : ON PETITION
Filed: June 28, 2002 :
Attorney Docket No: P1043-1 :

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

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

This application became abandoned for failure to respond in a timely manner to the non-final Office action mailed June 29, 2006. The notice set a shortened statutory period for reply of three months from its mailing date. A proper response was not received within the allowable period, and the application became abandoned on September 20, 2006.

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

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

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

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

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

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

It is noted that a Notice of Appeal was filed on January 3, 2007, and an Appeal Brief was filed on February 8, 2007. Neither of these are a proper response to a **non-final** Office action. A proper response to a non-final Office action might include an amendment to the claims or a continuing application. A proper response to the non-final Office action must accompany the renewed petition.

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

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WADDEY & PATTERSON, P.C.
1600 DIVISION STREET, SUITE 500
NASHVILLE TN 37203

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JUL 08 2008

In re Application of :
Gough, et al. :
Application No. 10/184,816 : DECISION ON PETITION
Filed: June 28, 2002 :
Attorney Docket No. P1043-1 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed March 14, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to file a proper reply to the non-final Office action mailed June 29, 2006, which set a three (3) month shortened statutory period for reply. A proper response was not received within the allowable period, and the application became abandoned on September 30, 2006. A Notice of Abandonment was mailed on January 16, 2008.

he Notice of Appeal filed January 3, 2007, and Appeal Brief filed February 28, 2007, are noted.

The application file is being forwarded to Technology Center 1700, GAU 1791 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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LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE, WA 99201

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DEC 0 9 2005

OFFICE OF PETITIONS

In re Application of :
Louis F. Coffin, III :
Application No. 10/184,819 : ON PETITION
Filed: October 14, 2003 :
Attorney Docket No.: 57042-079 :
:

This is a decision on the petition, filed December 8, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 28, 2005, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2682 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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

OFFICE OF PATENT COUNSEL
SCHLUMBERGER OILFIELD SERVICES
P.O. BOX 2175
HOUSTON TX 77252-2175

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OCT 1 0 2002

OFFICE OF PETITIONS

In re Application of :
Hill et al. :
Application No. 10/184,833 : DECISION GRANTING PETITION
Filed: 28 June, 2002 :
Att'y Docket No. 20.2815 :

This is a decision on the petition filed on 12 August, 2002, requesting that the above-identified application be accorded a filing date of 28 June, 2002, with six (6) sheets of drawings as a part of the original disclosure.

On 28 June, 2002, the application was filed.

On 1 August, 2002, Initial Patent Examination Division mailed a "Notice of Incomplete Application" stating that the application had not been accorded a filing date because the application was deposited without drawings and that the filing date of the application would be the date of receipt of the drawings. In response, on 5 August, 2002, petitioners filed eight (8) sheets of "formal" drawings. Accordingly, the application was accorded a filing date of 5 August, 2002.

In response, on 12 August, 2002 (certificate of mailing date 7 August, 2002), the present petition and six (6) sheets of drawings were filed, accompanied by the petition fee. Petitioners argues that six (6) sheets of "informal" drawings were filed with the other application papers on 28 June, 2002, and that the drawings were misplaced in the U.S. Patent and Trademark Office (Office). In support of the petition, a copy of petitioners' postcard receipt which shows an Office stamp of 28 June, 2002, and the above-identified application number, and acknowledges receipt of, *inter alia*, Informal Drawings (6 p.), was supplied. Petitioner requests that the application, including six (6) sheets of drawings, be accorded a filing date of 28 June, 2002.

Upon review of the record, no sheets of drawings deposited on 28 June, 2002, have been located among the application papers. However, the evidence is convincing that the application papers deposited on 28 June, 2002, included six (6) sheets of drawings, which were subsequently misplaced in the USPTO. Therefore, the application, including six (6) sheets of drawings, was complete on filing and entitled to a filing date of 28 June, 2002.

In view of the above, the petition is granted. The six (6) sheets of drawings submitted with the petition will be used for processing and examination purposes. The eight (8) sheets of drawings filed on 5 August, 2002, will not be used for processing or examination, but will be retained in the application file. The petition fee will be credited to counsel's deposit account, No. 19-0610.

The "Notice" mailed on 1 August, 2002, was sent in error and is hereby withdrawn.

The application is being returned to Initial Patent Examination Division for reprocessing with a filing date of 28 June, 2002, using the application papers filed on that date, and the copy of six (6) sheets of drawings supplied on 12 August, 2002, and for an indication on the bib-data sheet that six (6) sheets of drawings were present on filing.

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

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

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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DW 11-02

Paper No. 4

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

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NOV 27 2002

OFFICE OF PETITIONS

In re Application of :
Ahlem et al. :
Application No. 10/184,836 : ON PETITION
Filed: 28 June, 2002 :
Attorney's Docket No. 81741P010DC :

This is a decision on in reference to the communication filed on 24 October, 2002 (certificate of mailing date 18 October, 2002), which is treated as a petition under 37 CFR 1.53 requesting that the above-identified application be accorded a filing date of 28 June, 2001, with Page 80 of the specification containing the abstract as a part of the original disclosure.

The petition is granted.

The application was filed on 28 June, 2002. However, on 20 August, 2002, Initial Patent Examination Division mailed a "Notice" stating, *inter alia*, that the application had been accorded a filing date but that Page 80 of the specification (description and claims) appeared to have been omitted. Additionally, the Notice state that an abstract of the technical disclosure was not provided in accordance with 37 CFR 1.72(b).

In response, on 24 October, 2002 (certificate of mailing date 18 October, 2002), Pages 80-81 of the specification (containing the abstract), and the present petition were filed. Petitioners argue that Page 80 containing the abstract was filed with the other application papers on 28 June, 2002, but was subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied with the present petition. The postcard receipt shows an Office date stamp of 06/28/02, and the above-identified application number, and identifies the application by the inventors' last names, invention title, and docket number, and acknowledges

receipt of, *inter alia*, Application 82 pages w/ cover & abstract). Petitioners request that the application, including Page 80 containing the abstract, be accorded a filing date of 28 June, 2002.

A review of the record reveals that Pages 1-79 and 81 of the specification and abstract have been located among the application papers deposited on 28 June, 2002. However, the evidence is convincing that the application papers deposited on 28 June, 2002, included Page 80 containing the abstract, which was subsequently misplaced in the Office. Therefore, the application, including Page 80 containing the abstract, is entitled to a filing date of 28 June, 2002.

The "Notice" mailed on 20 August, 2002, is vacated.

In view of the above, the petition is granted. The petition fee of $130.00 will be refunded to counsel's deposit account, No. 02-2666.

The application will be processed and examined using the copy of Page 80 supplied on 24 October, 2002. The copy of Page 81 supplied on 24 October, 2002, will not be used for processing or examination, but will be retained in the application file.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 28 June, 2002, using the application papers filed on 28 June, 2002, and the copy of Page 80 supplied on 24 October, 2002.

Telephone inquires should be directed to the undersigned at 703 308-6918.

DWood

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

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DLA PIPER RUDNICK GRAY CARY US LLP
4365 EXECUTIVE DRIVE
SUITE 1100
SAN DIEGO CA 92121-2133

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SEP 01 2006

OFFICE OF PETITIONS

In re Application of :
Thomas Vogt :
Application No. 10/184,846 : ON PETITION
Filed: June 27, 2002 :
Attorney Docket No. DERM1110-1 :

This is a decision on the petition to revive an abandoned application under 37 CFR 1.137(b), filed February 13, 2006.

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

The above-identified application became abandoned for failure to timely file a response to the non-final Office action mailed May 5, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under 37 CFR 1.136(a) were purchased. Accordingly, no reply having received, the application became abandoned on August 6, 2005. A Notice of Abandonment was mailed on December 9, 2005.

With the instant petition, petitioner paid the petition fee, submitted the required reply in the form of an Amendment, and made a statement of unintentional delay. 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required

reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. 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). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $510.00 extension of time fee submitted with the petition on February 13, 2006 was subsequent to the maximum period obtainable for reply (November 5, 2005), this fee has been refunded to petitioner's Deposit Account No. 07-1896.

The matter is being forwarded to Group Art Unit 1634 for consideration of the Amendment filed February 13, 2006.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

MAIL

JUN 1 4 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
NEWMAN, TODD :
Serial No.:10/184,886 :
Filed: July 1, 2002 : DECISION ON PETITION
For: **IN-GAMUT COLOR PICKER** : *ACCEPTANCE OF COLOR DRAWINGS*

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed, July 8, 2002, requesting acceptance of color drawings.

The petition requests that color drawings, 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 petition is GRANTED.

The application file is being forwarded to Drafting Division, Drawing Review Branch for review of the drawing figures in light of this decision.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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30 ROCKEFELLER PLAZA
NEW YORK NY 10112

MAIL

JUN 1 4 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
NEWMAN, TODD :
Serial No.:10/184,886 :
Filed: July 1, 2002 : DECISION ON PETITION
For: **IN-GAMUT COLOR PICKER** : *ACCEPTANCE OF COLOR DRAWINGS*

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed, July 8, 2002, requesting acceptance of color drawings.

The petition requests that color drawings. 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 petition is GRANTED.

The application file is being forwarded to Drafting Division, Drawing Review Branch for review of the drawing figures in light of this decision.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications

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Pet. Dec.

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JUN 29 2004

Mailed:

BC

Paper Number:

In re application of
Rodolfo Iezzi et al.
Serial No. 10/184,888
Filed: July 1, 2002
For: PROCESS FOR PREPARING LIGHT OLEFINS BY DEHYDROGENATION OF THE CORRESPONDING PARAFFINS

DECISION ON PETITION

This is a decision on the PETITION UNDER 37 CFR 1.181 TO ACKNOWLEDGE RECEIPT AND CONSIDERATION OF THE INFORMATION DISCLOSURE STATEMENT OF JULY 1, 2002. The instant petition under 37 CFR 1.181 was timely filed.

DECISION

The Information Disclosure Statement, which was timely filed on July 1, 2002, it has now been fully considered by the examiner. A copy of the initialed, signed and dated PTO-1449 is attached to this decision.

This Petition is **GRANTED**.

Attached to the present Petition was a LETTER IN REPLY TO EXAMINER'S REASONS FOR ALLOWANCE. As set forth in MPEP 1302.14, this Letter has been placed in the application file.

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

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

JAN 13 2004
PATENT & TRADEMARK OFFICE

Form PTO 1449 (Modified) U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE	ATTY DOCKET NO. 224052US0X CONT	SERIAL NO. 10/184988 New Application
LIST OF REFERENCES CITED BY APPLICANT	APPLICANT Rodolfo IEZZI, et al.	
	FILING DATE Herewith	GROUP

U.S. PATENT DOCUMENTS

EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUB CLASS	FILING DATE IF APPROPRIATE
TN	AA	3,980,721	09/76	Juguin et al ✓	260	668D	
TN	AB	4,056,576	11/77	Gregory et al	260	683.3	
TN	AC	4,438,288	03/84	Imai et al	585	379	
TN	AD	5,143,886	09/01/92	Iezzi et al			
TN	AE	4,914,075	04/90	Bricker et al ✓	502	330	
TN	AF	5,214,227	05/93	Zhon et al	585	660	
	AG						
	AH						
	AI						
	AJ						
	AK						
	AL						
	AM						
	AN						

FOREIGN PATENT DOCUMENTS

		DOCUMENT NUMBER	DATE	COUNTRY	TRANSLATION YES	TRANSLATION NO
TN	AO	26 28 262	12/29/77	GERMANY		XX
	AP					
	AQ					
	AR					
	AS					
	AT					
	AU					
	AV					

OTHER REFERENCES (Including Author, Title, Date, Pertinent Pages, etc.)

	AW	
	AX	
	AY	
	AZ	

☐ Additional References sheet(s) attached

Examiner Tahm

Date Considered 5/01/04

*Examiner: Initial if reference is considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

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

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AUG 25 2006

OFFICE OF PETITIONS

In re Application of :
Rodolfo Iezzi et al :
Application No. 10/184,888 : ON PETITION
Filed: July 1, 2002 :
Attorney Docket No. 224052US0XCONT

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 17, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1764 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed 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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OFFICE OF PETITIONS

In re Application of :
Rodolfo Iezzi et al :
Application No. 10/184,888 : ON PETITION
Filed: July 1, 2002 :
Attorney Docket No. 224052US0X CONT

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 17, 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 1764 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement and Amendment.

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

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JUN 3 0 2004

OFFICE OF PETITIONS

In re Application of :
Weil et al. :
Application No. 10/184,895 : ON PETITION
Filed: July 1, 2002 :
Attorney Docket No. 0512-1056-1 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 23, 2004, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply within three months to the final Office action mailed October 10, 2003. A two-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, this application became abandoned on March 11, 2004.

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

This matter is now being forwarded to Technology Center 3700 for further examination on the merits.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 15, 2007

TO SPE OF : ART UNIT 2812

SUBJECT : Request for Certificate of Correction for Appl. No. 10/184902 patent No.:6960482

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE _____ Art Unit 2812

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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JJGJR.: 01-05

Paper No: __

HANNA ALBERT AWAD
AJALTOUN
KESROUAN LB
LEBANON

COPY MAILED

JAN 28 2005

OFFICE OF PETITIONS

In re Application of
Awad :
Application No. 10/184,936 :
Filing Date: 1 July, 2002
Attorney Docket No. (None) :

This is a decision on the petition filed on 1 November, 2004, alleging unavoidable delay under 37 C.F.R. §1.137(a).

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

NOTES:

(1) Any petition (and fee) for reconsideration of this decision under 37 C.F.R. §1.137(a) (as to unavoidable delay) or an alternative request for relief under 37 C.F.R. §1.137(b)[1] (as to unintentional delay) must be submitted within two (2)

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

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

(2) the petition fee as set forth in 37 C.F.R. §1.17(m);

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

(4) any terminal disclaimer (and fee set forth in 37 C.F.R. §1.20(d)) required pursuant to 37 C.F.R. §1.137(c). (Emphasis supplied.)

months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(a)"; and/or "Petition under 37 C.F.R. §1.137(b)";

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

BACKGROUND

The record reflects that:

- a non-final Office action was mailed on 6 October, 2003, with reply due absent a request and fee for an extension of time on 6 January, 2004;
- when Petitioner failed to respond timely and properly to that Office action the application went abandoned after midnight 6 January, 2004;
- in 28 April, 2004, Petitioner filed a communication with set forth the following:

> I have send (sic) three different express mails from Lebanon on forms 122 to change my address to Hanna Albert Awad, Ajaltoun, Kesrouan, Lebanon from one year ago.
>
> No address has been changed.
>
> I have got the response for the invention. Six months have passed.
>
> I am not responsible for your action.
>
> Please consider my position.
>
> I will send the response to the examiner without any more money paid.
>
> Please understand my position. It is not my mistake.
>
> Sincerely,
> /s/Hanna Albert Awad

However, Petitioner did not provide any documentary evidence in support of the allegation that she had given the Office Notice of Change of Address before 28 April, 2004;

- Petitioner also filed on 28 April, and again on 3 May, 5 May, and 28 May, 2004, Notice of Change of Address, all of which bear the hand-written date of 28 April, 2004;

- on 28 May, 2004 Petitioner also filed the following communication:

> ATTENTION COMMISSIONER FOR PATENTS: PETITION
>
> I HAVE SEND YOU THREE SEPARATE EXPRESS MAILS FROM LEBANON CONTAINING FORMS 122 ASKING FOR THE CHANGE OF MY ADDRESS ONE YEAR AGO. NOTHING HAS CHANGED. THEY TOLD ME IN THE PATENT ASSISTANT (SIC) THAT THE ANSWER TO MY APPLICATION 10/184,936 HAVE BEEN SEND (SIC) IN AUGUST 2003 AND A FINAL ONE IN OCTOBER 2002 TO MY OLD ADDRESS AND IT IS NOW ABANDONNED (SIC). THE EXAMINER CAN NOT DO ANYTHING AND CAN NOT REVIVE THE APPLICATION. PLEASE CAN YOU CONSIDER MY CASE (IT IS NOT MY MISTAKE) AND REVIVE MY APPLICATION AND SEND ME A COPY OF THE ANSWER SENT IN AUGUST 2002 TO MY NEW ADDRESS: AJALTOUN, KESROUAN, LEBANON. IT IS NOW CHANGED AFTER ABOUT 10 FAXES. THIS IS NOT MY MISTAKE. I THINK I AM NOT ENTITLED TO PAY THE EXTRA EXTENDING MONTH IS THERE IS ANY. PLEASE BE FAIR.
> /S/ HANNA ALBERT AWAD
> DATE: 5/26/2004

- on 28 May, 2004, Petitioner also filed another document which appears to contain an amendment–along with statement that she previously had Noticed the Office of her change of address;

- on 14 July, 2004, the Office mailed a Notice of Abandonment;

- on 1 November, 2004, Petitioner filed the instant petition, without fee, and stated therein:

> After sending 3 express mails and ten faxes to the PTO during 2 years nothing has been changed as correspondence address until 1 month ago. It is your flagrant mistake.

- Petitioner alleged unavoidable delay, but supported the allegation only with statements (and no documentation in support) that she previously Noticed the Office as to a change of address, and she failed to pay the petition fee. (See: http://www.uspto.gov/main/howtofees.htm, and note that a new fee schedule takes effect on 31 January, 2005.)

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and

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[2] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

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

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

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

regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

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

Petitioner has failed to satisfy the "showing" and "fee" requirements, and must, as required by regulation (see: 37 C.F.R. §1.4(c) (http://www.uspto.gov/web/offices/pac/mpep/documents/appxr_1_4.htm#cfr37s1.4), clearly indicate exactly the paper that is to be her amendment for consideration by the Examiner should the application be revived.

Copies of the 6 October, 2003, Non-Final Rejection (Office Action) and the 14 July, 2004, Notice of Abandonment are enclosed for Petitioner's reference.

CONCLUSION

In the absence of the proper showing, required fee and proper reply in the form of an amendment submitted as a separate paper, the instant petition under 37 C.F.R. §1.137(a) hereby is **dismissed**.

ALTERNATIVE VENUE

It appears that Petitioner will be unable to make a showing of unavoidable delay. Petitioner's only alternative to irretrievable abandonment is to file a petition under 37 C.F.R. §1.137(b) (state therein that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional").

Thus, Petitioner may wish to supplement the petition to plead alternatively under 37 C.F.R. §1.137(b) wherein the "showing" burden is much less onerous.

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

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

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

By FAX: IFW Formal Filings
(703) 872-9306
ATTN.: Office of Petitions

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

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

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

Encl: A copy of the 6 October, 2003, Non-Final Rejection (Office Action) and a copy of the 14 July, 2004, Notice of Abandonment

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

7+

Paper No.: _____

DATE : December 27, 2006

TO SPE OF : ART UNIT 2183

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/185007 Patent No.: 7,000,097 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: US patent numbers not listed; PTO's mistake

[signature] 2183

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/185,017	07/01/2002	Yokio Sakai	CS-25-020701	5576

22712 7590 02/08/2005

PAUL A. GUSS
PAUL A. GUSS ATTORNEY AT LAW
775 S 23RD ST FIRST FLOOR SUITE 2
ARLINGTON, VA 22202

EXAMINER	
MILLER, ROSE MARY	

ART UNIT	PAPER NUMBER
2856	

DATE MAILED: 02/08/2005

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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In re Application of SAKAI ET AL.
Appl. No.: 10/185,017
Filed: July 01, 2002
For: SYSTEM FOR WATCHING AND FORECASTING CHANGES IN NATURAL PHENOMENA AND WEATHER BASED ON SOUND FROM THE EARTH

DECISION ON PETITION
37 CFR 1.48(b)

This decision is in response to the petition filed November 24, 2004, in the above-identified application.

In view of the papers filed November 24, 2004, the inventorship in this nonprovisional application has been changed by the deletion of Kunio Torii as co-inventors.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

Hezron E. Williams, Supervisory Patent Examiner, AU 2856

PAUL A. GUSS
PAUL A. GUSS ATTORNEY AT LAW
775 S 23RD ST FIRST FLOOR SUITE 2
ARLINGTON, VA 22202

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/185,017	07/01/2002	Yokio Sakai	CS-25-020701	5576

22712 7590 02/23/2005

PAUL A. GUSS
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775 S 23RD ST FIRST FLOOR SUITE 2
ARLINGTON, VA 22202

EXAMINER	
MILLER, ROSE MARY	

ART UNIT	PAPER NUMBER
2856	

DATE MAILED: 02/23/2005

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
www.uspto.gov

In re Application of SAKAI ET AL.
Appl. No.: 10/185,017
Filed: July 01, 2002
For: SYSTEM FOR WATCHING AND FORECASTING CHANGES IN NATURAL PHENOMEAN AND WEATHER BASED SOUNDS FROM THE EARTH

DECISION ON PETITION
37 CFR 1.48(b)

This decision is in response to the petition filed November 24, 2004. The petition seeks to delete an inventor pursuant to 37 CFR 1.18(b).

In view of the papers filed on November 24, 2004, the inventorship in this nonprovisional application has been changed by the deletion of KUNIO TORII.

Hezron E. Williams, SPE

Patent Examining Technology Center 2800

PAUL A. GUSS
PAUL A. GUSS ATTORNEY AT LAW
775 S 23RD ST FIRST FLOOR SUITE 2
ARLINGTON, VA 22202

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ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA PA 19103

COPY MAILED

MAR 24 2006

OFFICE OF PETITIONS

In re Patent No. 6,737,307	:	
Issued : May 18, 2004	:	
Application No. 10/185,034	:	ON PETITION
Filed: June 28, 2002	:	
Attorney Docket No. 681954-90	:	

This is a decision on the petition under 37 CFR 1.182, filed December 15, 2005, requesting issuance of a duplicate Letters Patent for the above-identified application.

The petition is **GRANTED**.

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

Any questions concerning this matter may be directed to Petitions Examiner Liana Chase at (571) 272-3206. Any questions concerning issuance of the duplicate Letters Patent should be directed to Kimberly Terrell at (703) 308-9250.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent.

Liana Chase for
Frances Hicks
Petitions Examiner
Office of Petitions

cc: Kimberly Terrell, P/OPPD, South Tower 8C41 (FAX 703-746-4658)

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

JOHN S. MUNDAY
LAW OFFICES OF JOHN S. MUNDAY
PO BOX 423
ISANTI, MN 55040

COPY MAILED

JAN 25 2008

OFFICE OF PETITIONS

In re Application of	:	
Jacobs et al.	:	
Application No. 10/185,039	:	DECISION ON PETITION
Filed: June 28, 2002	:	
Attorney Docket No. JDC-5026USNP	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 18, 2007, 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 an Amendment, (2) the petition fee, 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). Accordingly, since the $450.00 extension of time fee submitted with the petition on December 18, 2007m 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.

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

This matter is being referred to Technology Center 3732 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

Cc:

JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DIW 10-02

Paper No. 6

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

COPY MAILED

OCT 0 9 2002

OFFICE OF PETITIONS

In re Application of	:	
Carulli et al.	:	
Application No. 10/185,047	:	DECISION DISMISSING
Filed: 1 July, 2002	:	PETITION
Attorney Docket No. 032796-144	:	

This is a decision on the petition filed on 5 September, 2002, requesting that above-identified application be accorded a filing date of 1 July, 2002, with Figure 28 described in the specification as a part of the original disclosure.

The petition is **DISMISSED**.

The application was filed on 1 July, 2002. On 26 July, 2002, Initial Patent Examination Division mailed a Notice to File Corrected Application Papers requiring substitute drawings in compliance with 37 CFR 1.84 and stating that Figure 28 described in the specification appeared to have been omitted from the application.

In response, on 5 September, 2002, the present petition was filed, along with a petition fee of $130.00, and substitute drawings. Petitioner asserts that Figure 28 was filed with the other application papers deposited on 1 July, 2002, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioner's postcard receipt was supplied with the present petition. The postcard receipt shows an Office date stamp of 1 July, 2002, and bears the above-identified application number. The postcard identifies the application by the sole inventor's name and invention title, and acknowledges receipt of, *inter alia*, Figures 1-28, 84 pages. Petitioners request that the application, including Figure 28 of the specification, be accorded a filing date of 1 July, 2002.

A review of the record reveals that 83 sheets of drawings have been located among the application papers deposited on 1 July, 2002. However, the evidence is convincing that the application papers deposited on 1 July, 2002, included one (1) sheet of drawings containing Figure 28, which was subsequently misplaced in the Office.

The petition is dismissed, however, because petitioner has not supplied a copy of the sheet of drawings containing Figure 28 as originally filed. Although petitioners state that Figure 28 is located among the substitute drawings filed with the present petition, the substitute drawings are not the original disclosure. Petitioners must therefore supply a copy of the sheet of drawings containing Figure 28 of the drawings *as originally filed* on 1 July, 2002.

It is noted that the Utility Patent Application Transmittal filed with the original application papers states that the present application is a division of Application No. 09/358,001, filed on 21 July, 1999, and that the entire disclosure of the prior application is hereby incorporated by reference herein.

Section 201.06(c) of the Manual of Patent Examining Procedure states that:

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

Obviously, in view of the incorporation by reference of the prior application, Figure 28 described in the specification is not new matter if they it was a part of the disclosure of the prior application. As such, petitioners may alternatively submit Figure 28 as a preliminary amendment for consideration by the examiner under Section 608.02(p) and 608.04 of the Manual of Patent Examining Procedure.

Accordingly, the petition is dismissed.

Receipt is acknowledged of the substitute drawings filed on 5 September, 2002. The substitute drawings are not part of the original disclosure and must be reviewed by the examiner for new matter.

Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely. This time period may not be extended pursuant to 37 CFR 1.136. The application will be retained in the Office of Petitions for **TWO (2) MONTHS** to await petitioner's reply to this decision. If no response is received within two (2) months, the application will be forwarded to the Office of Initial Patent Examination for further processing with a filing date of 1 July, 2002, using only the application papers filed on that date.

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

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

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

By hand: Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DIW 12-02

Paper No. 8

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

COPY MAILED

DEC 19 2002

OFFICE OF PETITIONS

In re Application of	:	
Carulli et al.	:	
Application No. 10/185,047	:	DECISION GRANTING
Filed: 1 July, 2002	:	PETITION
Attorney Docket No. 032796-144	:	

This is a decision on the renewed petition filed on 6 December, 2002, requesting that above-identified application be accorded a filing date of 1 July, 2002, with Figure 28 described in the specification as a part of the original disclosure.

The petition is **GRANTED**.

The application was filed on 1 July, 2002. On 26 July, 2002, Initial Patent Examination Division mailed a Notice to File Corrected Application Papers requiring substitute drawings in compliance with 37 CFR 1.84 and stating that Figure 28 described in the specification appeared to have been omitted from the application. The petition filed on 5 September, 2002, was dismissed on 9 October, 2002, because petitioners had not supplied a copy of Figure 28 as original filed.

In response, on 6 December, 2002, the present renewed petition was filed. Petitioners again asserts that Figure 28 was filed with the other application papers deposited on 1 July, 2002, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioner's postcard receipt was supplied on 5 September, 2002. The postcard receipt shows an Office date stamp of 1 July, 2002, and bears the above-identified application number. The postcard identifies the application by the sole inventor's name and invention title, and acknowledges receipt of, *inter alia*, Figures 1-28, 84 pages. Petitioners request that the application, including Figure 28 of the specification, be accorded a filing date of 1 July, 2002. On

6 December, 2002, a copy of one sheet of drawings containing Figure 28 was supplied.

A review of the record reveals that 83 sheets of drawings have been located among the application papers deposited on 1 July, 2002. However, the evidence is convincing that the application papers deposited on 1 July, 2002, included one (1) sheet of drawings containing Figure 28, which was subsequently misplaced in the Office.

As previously stated, receipt is acknowledged of the substitute drawings filed on 5 September, 2002. The substitute drawings are not part of the original disclosure and must be reviewed by the examiner for new matter.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 1 July, 2002, using the application papers filed on 1 July, 2002, and the copy of one sheet of the drawings containing Figure 28 supplied on 6 December, 2002, and for an indication in Office records that 84 sheets of drawings were present on filing.

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

D Wood

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

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AUG 31 2007

OFFICE OF PETITIONS

In re Application of :
Pirozzi et al. :
Application No. 10/185,050 : DECISION ON PETITION
Filed: June 28, 2002 :
Title: Identification and Isolation of Novel :
Polypeptides Having WW Domains and
Methods of Using Same

This is a decision on the petition under 37 CFR §1.137(a) to revive the above-identified application, filed November 28, 2006. This petition will be treated as a petition to withdraw the holding of abandonment pursuant to 37 CFR 1.181(no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.
The petition under 37 CFR 1.137(a) is **DISMISSED AS MOOT**.

This application was held abandoned for failure to reply to the Notice of Allowance and Fee(s) Due (Notice) mailed May 4, 2006, which set a three (3) month statutory period for reply. A Notice of Abandonment was mailed on October 12, 2006.

Petitioner asserts that the Notice dated May 4, 2006 was not received.

A review of the written record indicates an irregularity in the mailing of the Notice of Allowance. In this regard, the Office received a change of address on April 20, 2005 prior to the mailing of the Notice of Allowance. Office records were not updated to reflect this new change of address. Accordingly, as the Notice was mailed to an incorrect address, the Notice of Abandonment mailed October 12, 2006 is hereby vacated and the holding of abandonment withdrawn.

This application is being forwarded to the Office of Patent Publication. Since the issue fee has been submitted on petition, the re-mailing of the Notice of Allowance and Notice of Allowability is not required.

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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JANE MASSEY LICATA
LICATA & TYRRELL, P.C.
66 EAST MAIN STREET
MARLTON, NJ 08053

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AUG 2 4 2004

OFFICE OF PETITIONS

In re Application of :
Kenneth W. Dobie :
Application No. 10/185,057 : ON PETITION
Filed: June 28, 2002 :
Attorney Docket No. HTS-0119 :

This is a decision on the petition under 37 CFR 1.313(c), filed August 16, 2004 and supplemented on August 20, 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 July 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]

The correspondences filed August 16, 2004 and August 20, 2004 are not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Leslie B. Overman 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. However, if Mr. Overman desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to Mr. Overman, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

---

[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.

This matter is being referred to Technology Center AU 1635 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

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

cc: LESLIE B. OVERMAN
ISIS PHARMACEUTICALS INC.
2292 FARADAY AVE.
CARLSBAD, CA 92009

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 16

JAMES R. CARTIGLIA
UCAR CARBON COMPANY INC.
BRANDYWINE WEST
1521 CONCORD PIKE, SUITE 301
WILMINGTON, DE 19803

COPY MAILED

OCT 2 9 2004

OFFICE OF PETITIONS

In re Application of	:	
Lewis et al.	:	
Application No. 10/185,058	:	ON PETITION
Filed: June 28, 2002	:	
Attorney Docket No. P2010-1/N8794	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 9, 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 June 4, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on September 5, 2003. A Notice of Abandonment was mailed December 9, 2003.

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

The file is now being forwarded to Technology Center 1700 for processing of the Request for Continued Examination under 37 CFR 1.114.

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

Liana Chase

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

Paper No.

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JAN 0 4 2005

OFFICE OF PETITIONS

In re Patent No. 6,804,047	: DECISION ON APPLICATION
Byun et al.	: FOR
Issue Date: October 12, 2004	: PATENT TERM ADJUSTMENT
Application No. 10/185,062	: and
Filed: June 28, 2002	: NOTICE OF INTENT TO ISSUE
Atty Docket No. 9242-000012	: CERTIFICATE OF CORRECTION

This is a decision on the "PETITION TO REQUEST RECONSIDERATION OF PATENT TERM ADJUSTMENT CALCULATION PURSUANT TO 37 CFR 1.705," filed November 22, 2004. Patentees request that the patent term adjustment indicated in the patent be corrected from one hundred thirteen (113) days to two hundred seventeen (217) days. Patentees further request that a new Issue Notification be prepared and issued in due course.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of two hundred seventeen **(217)** days. No new Issue Notification will be prepared or issued.

On October 12, 2004, the above-identified application matured into U.S. Patent No. 6,804,047. The instant request for reconsideration filed November 22, 2004 was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 113 days. Patentees state that the filing of the Issue Fee Payment was recorded as a "Miscellaneous Incoming Letter" and 113 days were taken from the PTA period.

The record has been reviewed, and patentees are correct. The only paper filed after the mailing of the notice of allowance was the required reply, payment of the Issue Fee. Accordingly, the reduction of 113 should not have been entered in this application. Patentees did not fail to "engage in reasonable efforts" to conclude processing or examination of an application pursuant to 37 CFR 1.704(c)(10) by timely transmitting the Issue Fee.

Furthermore, there were no other bases for reduction of the patent term adjustment.

In view thereof, the patent term adjustment indicated in the patent should be **(217)** days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **TWO HUNDRED SEVENTEEN (217)** days.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Karin Ferriter 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/185,069	07/01/2002	Yong-Jae Kim	1572.1028	3136

21171 7590 02/21/2008

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

EXAMINER	
MADAMBA, GLENFORD J	
ART UNIT	PAPER NUMBER
2151	

MAIL DATE	DELIVERY MODE
02/21/2008	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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FEB 27 2008

TECHNOLOGY CENTER 2100

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

In re Application of:
Young-Jae KIM
Application No. 10/185,069
Filed: July 01, 2002
For: THIN CLIENT NETWORK SYSTEM AND DATA TRANSMITTING METHOD THEREFOR

DECISION ON PETITION UNDER 37 CFR § 1.181

This is a decision on the petition filed May 18, 2007 under 37 CFR § 1.181 to invoke Supervisory Authority of the Commissioner and require the Examiner to withdraw the Final rejection mailed April 09, 2007.

The petition is **DISMISSED AS MOOT**.

BACKGROUND

On January 3, 2007, the applicant filed an amendment amending claims 1-12, wherein independent claims 1, 4, 5, , 8 and 9 were amendment to include the limitation " ... a predetermined cell, of a plurality of predetermined cells, displaying least the graphic data...".

On April 09, 2007, the examiner issued a Final Office action rejecting claims 1, 4, 5, 8, and 9 under 35 U.S.C. § 103 (a) as being unpatentable over Lafe in view of Mendhekar.

On May 18, 2007, applicant's counsel filed a petition to the Director under 37 CFR § 1.181 to seek relief from actions of the examiner Glenford Madamba and SPE Zarni Maung in relation to the Final Office action mailed April 09, 2007. In the petition, applicant's counsel alleged that the rejection of claims 1, 3, 4, 5, 8, and 9 under 35 U.S.C. § 103 (a) as being unpatentable over Lafe in view of Mendhekar is a new ground of rejection that was not necessitated by amendment, thus rendered the Final Office action premature.

On August 09, 2007, applicant filed a Request for Continued Examination (RCE) with the required fee, a preliminary amendment and a petition for one (1) month extension of time.

On November 14, 2007, a Non-Final office action was mailed.

RULES AND PROCEDURES

37 C.F.R. § 1.181(f) states, in part:

> The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition ...

37 C.F.R. § 1.114(d) states, in part:

> If an applicant timely files a submission and fee set forth in § 1.17(e), the Office will withdraw the finality of any Office action and the submission will be entered and considered. If an applicant files a request for continued examination ...

MPEP § 706.07(a) states in part that:

> Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims...

DECISION

A review of the file history indicated that on January 3, 2007, the applicant filed an amendment amending claims 1-12, wherein independent claims 1, 4, 5, , 8 and 9 were amendment to include the limitation " ... a predetermined cell, of a plurality of predetermined cells, displaying least the graphic data..." to overcome the 35 USC 102(e) rejection as anticipated by Lafe. In the Final Office action of April 09, 2007, the examiner rejected claims 1, 4, 5, 8, and 9 under 35 U.S.C. § 103 (a) as being unpatentable over Lafe in view of Mendhekar, wherein the Mendheka reference was relied upon to teach the added limitation of " ... a predetermined cell, of a plurality of predetermined cells, displaying least the graphic data...". Thus, the new ground of rejection in the Final Office action is proper as it was necessitated by applicant's amendment.

As stated in 37 C.F.R. § 1.181(f), the mere filing of a petition will not stay any period for reply that may be running against the application. A delay to render a decision on this petition is hereby regretted.

On November 14, 2007, in view of 37 C.F.R. § 1.114(d) and the timely filing an RCE with the fee set forth in 37 CFR § 1.17(e) and an amendment that meets the reply requirements of 37 CFR § 1.111, a Non-Final office action was mailed withdrawing the finality of any Office action to which a reply is outstanding; the amendment of August 09, 2007 was entered and considered

Accordingly, the petition is **DISMISSED as MOOT.**

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

Jeffrey Gaffin, Acting Director
Technology Center 2100
Computer Architecture, Software,
and Information Security

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

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JUL 19 2006

OFFICE OF PETITIONS

In re Application of	:	
Meyer et al.	:	
Application No. 10/185,070	:	ON PETITION
Filed: June 28, 2002	:	
Attorney Docket Number:	:	
SC01404	:	

This is a decision on the Petition to Revive the Application based upon unintentional abandonment, filed February 15, 2006. The delay in treating this petition is regretted.

The petition is **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due ("Notice"), mailed November 2, 2005. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on February 3, 2006. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

With the instant petition Applicant has submitted the issue fee.

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

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

Derek L. Woods
Attorney
Office of Petitions

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Advanced Energy Technology Inc.
12900 Snow Road
Parma, OH 44130

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MAY 0 2 2008

OFFICE OF PETITIONS

In re Application of :
Robert Angelo Mercuri :
Application No. 10/185,085 : ON PETITION
Filed: June 28, 2002 :
Attorney Docket No. P1047-1 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 22, 2007, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed March 27, 2006. A Notice of Abandonment was mailed on November 2, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

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

This application file is being referred to Technology Center Art Unit 1733 for further processing.

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: James R. Cartiglia
Waddey & Patterson, PC
1600 Division Street, Suite 500
Nashville, TN 37203

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FEB 10 2004

KEVIN R. ERDMAN
BAKER & DANIELS
SUITE 2700
300 NORTH MERIDIAN STREET
INDIANAPOLIS IN 46204

In re Application of	:
David Robert Allen et al	:
Serial No.: 10/185,092	: PETITION DECISION
Filed: June 28, 2002	:
Attorney Docket No.: GRLK-010	:

This is in response to the petition under 37 CFR 1.144, filed December 19, 2003, requesting withdrawal of an improper restriction requirement.

BACKGROUND

A review of the file history shows that this application was filed under 35 USC 111 on June 28, 2002, and contained claims 1-36. In a telephone interview on May 20, 2003, the examiner required restriction between the claims, as follows:

Group I - Claims 1-22, drawn to a process of producing 3-amino nitrile compounds;
Group II - Claim 23, drawn to a chiral 3-amino nitrile salt;
Group III - Claim 24, drawn to enantiomerically enriched 3-amino nitrile compounds;
Group IV - Claim 25, drawn to (R)-3-amino pentanenitrile methanesulfonic acid;
Group V – Claim 26, drawn to (R)-3-amino pentanenitrile methanesulfonic acid salt;
Group VI – Claim 27, drawn to (R)-3-amino pentanenitrile hydrochloric acid salt;
Group VII – Claim 28, drawn to (R)-3-amino pentanenitrile hydrochloric acid salt;
Group VIII – Claims 29-30, drawn to 3-amino nitrile compounds;
Group IX – Claims 31-36, drawn to a process for producing 3-amino nitrile compounds.
(Note – Group VIII was inadvertently described as a process for producing the compounds in error.)

The examiner reasoned that the various groups defined separate products and processes and that the products could be made by other processes, even though the processes and products of the individual groups were all classified in the same class and subclass. A telephone election of Group I was made and the examiner mailed a first Office action to applicants on June 3, 2003, rejecting elected claim 1 under 35 USC 112, first and second paragraphs.

Applicants replied on August 14, 2003, confirming the election of Group I with traverse and vigorously traversing the restriction requirement. Applicants canceled Claims 3 and 25-28 and amended claims 1 and 18. Applicants argued that the examiner's classification of all groups in the same class and subclass shows there is no burden on the Office for searching both process and product and also that there are no other methods for making certain of the products.

The examiner, following a telephone interview, mailed a Notice of Allowability, with an Examiner's amendment in which claims23-24 and 29-36 were canceled, and a Notice of Allowance and Issue Fee Due to applicants on October 20, 2003.

Applicants then filed this petition on December 19, 2003, by facsimile. Applicants request reconsideration of the restriction requirement even though the claims have been canceled as the examiner failed to answer any of the arguments for traversal set forth in the first reply.

DISCUSSION

Applicants are correct that the examiner failed to answer any of the arguments for traversal of the restriction requirement in formulating the Notice of Allowability. It also appears that the sole reason for canceling claims 23-24 and 29-36 was to facilitate allowance of the application.

A review of the restriction requirement itself shows that it is flawed in several respects. First, claims 23-28 are all product-by-process claims. As such the compounds if not previously known would be patentable if the process of making them is patentable. However, the product must stand alone in determination of patentability and is not limited by the process by which it is made. In this respect, it is noted that the products of Groups IV and VI are essentially identical except for the salt with which the compound is associated. Thus they could and should have been grouped together. The same is true of Groups V and VII. Further, Groups II and III encompass the same compounds as Groups IV-VII in a precursor step. Thus, these compound (product-by-process) claims should not have been grouped separately. Group VIII is directed to the same compounds as claimed in Groups II-VII, without reference to the process by which they are made. As such they should have been grouped with the other product claims. Group IX and I are processes of making which do not differ significantly from each other and would not be separately patentable. As such they should not have been divided but examined together.

Thus the examiner should not have set forth a restriction requirement having more than two Groups based on process of making and product(s) made. However, even such a requirement is basically unsound since by classifying all of the groups, process and product in the same subclass, the examiner admits that there is no burden on the Office to search and examine them together. Clearly, if the product were found, by applicants' argument that no other process could make the product, the process would have been anticipated or obvious. The converse is also true based on applicants' arguments.

DECISION

The petition is **GRANTED.** The Notice of Allowability is withdrawn and the application will be withdrawn from issue in order for consideration of claims canceled by examiner's amendment.

The application will be forwarded to the examiner for reconsideration of claims 23-24 and 29-36 which were canceled by Examiner's amendment. Claims 25-28 remain canceled. The Issue Fee has been paid and will be retained pending reconsideration of the above claims and issuance of a new Notice of Allowability.

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

Bruce M. Kisliuk
Director, Technology Center 1600

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BAKER & DANIELS
300 NORTH MERIDIAN STREET, SUITE 2700
INDIANAPOLIS, IN 46204

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NOV 1 8 2004

OFFICE OF PETITIONS

In re Application of	:
David Robert Allen et al	:DECISION GRANTING PETITION
Application No. 10/185,092	:UNDER 37 CFR 1.313(c)(3)
Filed: June 28, 2002	:
Attorney Docket No. GRLK-010	:

This is a decision on the petition, filed November 17, 1004, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for express abandonment in favor of a continuing application stated to have been filed by Express Mail of even date. See 37 CFR 1.313(c)(3).

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

William M. Lee, Jr.
Lee, Mann, Smith, McWilliams, Sweeney & Ohlson
P.O. Box 2786
Chicago, IL 60690-2786

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FEB 07 2003

OFFICE OF PETITIONS

In re Application of
Scott et al.
Application No. 10/185,096
Filed: June 28, 2002
Attorney Docket Number: 709-1002

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR §1.47(a), filed November 6, 2002, certificate of mailing date October 31, 2002. A supplement to the petition was submitted on December 9, 2002

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR §1.47(a)," and should address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventors. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR §1.136(a).

The above-identified application was filed on June 28, 2002, without a signed oath or declaration.

Accordingly, on August 1, 2002, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration and a $130.00 surcharge for its late filing.

In response, on November 6, 2002, applicant submitted a $130.00 surcharge for late filing oath or declaration fee, and a letter from the attorney of assignee. To make timely, a one month extension of time was submitted with the instant petition.

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

As to item (1), the petition does not illustrate "diligent effort" was made to locate inventor Satyam. The letter from assignee's attorney Darren Gardner indicates inventor Satyam stated he was going to the United States but did not leave a forwarding address. The letter further states " it has not been possible to even attempt to contact Mr Satyam because his whereabouts are entirely unknown". Diligent effort requires that rule 47 applicant attempt to locate inventor Satyam so that the application papers

(including specification, claims and drawings) can be submitted for his review and signature. See MPEP 409.03(d). Rule 47 applicant has failed to provide evidence of diligent effort. Did applicant conduct an internet search? Applicant indicates there are no known relatives through which inventor Satyam can be reached, however was inventor Satyam 's emergency contact approached? The letter also indicates the invention was created in collaboration with a university and the assignee. Did rule 47 applicant contact the University for forwarding information?[1]

Applicant should present copies of documentary evidence that support a finding that the non-signing inventor could not be found or reached and the steps taken to locate the non-signing inventor. It is important that the statement contain facts as opposed to conclusions. If applicant provides sufficient evidence that diligent effort has been made to locate the inventor and inventor can not be located, 47 applicant is not required to send a copy of the application. However if inventor Satyam is located, rule 47 applicant is required to 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).

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.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

Charlema R. Grant
Petitions Attorney
Office of Petitions

[1] The correspondence sent to attorney William M. Lee from Darren Gardner indicates inventor Satyam may have been a student during the relevant period.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 10

William M. Lee, Jr.
Barnes & Thornburg
P.O. Box 2786
Chicago, IL 60690-2786

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APR 2 2 2003

OFFICE OF PETITIONS

In re Application of
Richard Scott and Arvind Saytam
Application No. 10/185,096
Filed: June 28, 2002
Attorney Docket Number: 709-1002

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed April 14, 2003.

The petition is GRANTED.

Petitioner has shown that the non-signing inventor can not be reached or located and diligent effort has been used to locate the inventor. Specifically, the declaration of Awdah Arraf states an internet search was conducted, phone calls were made to inventor's last known number and the University where non-signing inventor may have attended when the invention was created was contacted. The efforts outlined by petitioner demonstrate diligent effort was used to attempt to locate non-signing inventor Saytam.

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

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

The change of address submitted with the renewed petition has been entered.

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
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Arvind Saytam
1-4 Flanders Avenue
Mount Kuring-gai
New South Wales 2080
Australia

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APR 2 2 2003

OFFICE OF PETITIONS

In re Application of
Richard Scott and Arvind Saytam
Application No. 10/185,096
Filed: June 28, 2002
Attorney Docket Number: 709-1002

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

Dear Mr. Saytam:

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

William M. Lee, Jr.
Barnes & Thornburg
P.O. Box 2786
Chicago IL 60690-2786

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Director's Office
Group 3700

Paper No. 9

JEFFER, MANGELS, BUTLER & MARMARO, LLP
1900 AVENUE OF THE STARS, 7TH FLOOR
LOS ANGELES, CA 90067

In re Application of
YOUNG, WINSTON B.
Application No.: 10/185,181
Filed: June 27, 2002

: **DECISION ON**
: **PETITION TO**
: **MAKE SPECIAL**
:

This is a decision on the petition filed February 24, 2004 to make special under 37 CFR 1.102(c).

Since the requirements of 37 CFR 1.102(c) and MPEP 708.02, V 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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CHARLES E. BAXLEY, ESQ.
90 JOHN STREET - 3RD FLOOR
NEW YORK, NY 10038

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APR 21 2005

OFFICE OF PETITIONS

In re Application of :
I-Chung CHANG :
Application No. 10/185,216 : DECISION GRANTING PETITION
Filed: June 25, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 15100 B (4687 SL) :

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**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 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 above-identified application became abandoned on July 2, 2004. A Notice of Abandonment was mailed on November 17, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of April 1, 2004 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Betsy Deppe at (571) 272-6052 or in her absence, the undersigned at (571) 272-3217.

This matter is being referred to Technology Center AU 1723 for appropriate action on the concurrently filed amendment.

Frances Hicks for

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

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SIEMENS CORPORATION
ATTN: ELSA, KELLER, LEGAL ADMINISTRATOR
INTELLECTUAL PROPERTY DEPARTMENT
186 WOOD AVENUE SOUTH
ISELIN, NJ 08830

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OFFICE OF PETITIONS

In re Application of	:	
Marian, Vaughn	:	
Application No. 10/185,217	:	ON PETITION
Filed: June 27, 2002	:	
Attorney Docket No. 2002P06481US	:	

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed April 30, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on July 31, 2004.

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

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

Telephone inquiries should be directed to the undersigned at (703) 306-0482. Any telephone inquiries after September 28, 2004 should be directed to the undersigned at (571) 272-3282.

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

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30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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APR 0 2 2007

OFFICE OF PETITIONS

In re Application of	:
Takashi Isoda	: DECISION GRANTING PETITION
Application No. 10/185,233	: AND WITHDRAWING THE
Filed: June 28, 2002	: HOLDING OF ABANDONMENT
Attorney Docket No. 00862.022419	:

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed February 26, 2007.

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

The holding of abandonment is **WITHDRAWN**.

The above-identified application became abandoned for failure to timely file a proper response to the non-final Office action mailed April 6, 2006. This Office action set a shortened statutory period of three (3) months for reply. No reply having been received, the application became abandoned on July 7, 2006. A Notice of Abandonment was mailed on January 22, 2007.

Petitioner states that he did not receive the April 6, 2006 Office action. To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the docket record where the nonreceived Office action would have been entered had it been

received and docketed.[1] A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."[2]

Here, petitioner has met the requirements to establish non-receipt. In particular, petitioner has submitted a satisfactory docket record showing all replies docketed for the date of July 6, 2006. An entry for the instant application is absent, supporting the conclusion that the Office action was not received.

Accordingly, the holding of abandonment is withdrawn.

Given the basis for granting this petition, no petition fee was required, and none has been charged.

The application is being forwarded to Group Art Unit 2111 for re-mailing of the April 6, 2006 Office action to the above address of record, setting a new period for reply.

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

Cliff Congo
Petitions Attorney
Office of Petitions

---

[1] See MPEP 711.03(c)(II).

[2] Id.

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Paper No. 4

Elsa Keller
SIEMENS CORPORATION
Intellectual Property Department
186 Wood Avenue South
Iselin, NJ 08830

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NOV 0 7 2002

OFFICE OF PETITIONS

In re Application of :
Mohr, et al. :
Application No. 10/185,244 : DECISION ON PETITION
Filed: June 28, 2002 :
Attorney Docket No. 2002P10104US :

This is in response to the "Response to Notice of Omitted Items and Petition to Add Figure 7 While Maintaining Original Filing Date," filed September 4, 2002.

The application was filed on June 28, 2002. However, on July 30, 2002, the Office mailed a "Notice of Omitted Item(s) in a Nonprovisional Application," stating that the application had been accorded a filing date; however, Figure 7 described in the specification appeared to have been omitted.

In response, the present petition was filed requesting, in effect, that the application be amended to include the drawing containing Figure 7 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[1]. The failure to file a petition (and petition fee) under these two options within two months of the date of the Notice, pursuant to 37 CFR 1.181(f), will be treated as a constructive acceptance by the applicant of the application as deposited in the USPTO.

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[1] 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, petitioner neither asserts that the missing figure was deposited on June 28, 2002, nor requests a September 4, 2002 (the date the figure was supplied) filing date.

Instead, petitioner seeks 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). A preliminary amendment requesting entry of Figure 7 should be filed before the first Office action on the merits.

Since the present petition was not necessitated by any error on the part of the Office, the $130.00 petition fee will not be refunded.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of June 28, 2002. (Figure 7 is not considered a part of the original application disclosure).

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

per D Wood

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

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LUCENT TECHNOLOGIES INC.
101 CRAWFORDS CORNER ROAD
HOLMDEL, NJ 07733-3030

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OFFICE OF PETITIONS

In re Application of :
Vladimir Anatolyevich Aksyuk et al :
Application No. 10/185,249 : ON PETITION
Filed: June 28, 2002 :
Attorney Docket No. 29-5-11 :

This is a decision on the petition filed, June 7, 2005 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 reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed November 1, 2004, which set a shortened statutory period for reply of three (3) months. Two months extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 2, 2005.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on June 7, 2005.

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

This matters is being referred to Technology Center AU 2814 for further processing.

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

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NEW BRUNSWICK NJ 08933-7003

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OFFICE OF PETITIONS

In re Application of :
Burgermeister et al. :
Application No. 10/185,250 : DECISION ON PETITION
Filed: June 28, 2002 :
Attorney Docket No. CRD-1037 :

This is a decision on the petition under the unavoidable provisions of 37 CFR 1.137(a), filed June 20, 2007, 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 "Renewed Petition under 37 CFR 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

This above-identified application was held abandoned for failure to timely file a supplemental appeal brief. A Notice of Non-Compliant Appeal Brief pursuant to 37 CFR 41.37 was mailed on September 19, 2005 providing applicant with an extendable one month period for reply. A non-compliant supplemental appeal brief was submitted on June 16, 2006. A Communication Re: Appeal was mailed on June 1, 2007, indicating that the appeal brief was not compliant and the application was held abandoned. The application was held abandoned on October 20, 2005.

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 instant petition lacks item (3).

Petitioner maintains that applicants' attorney understands the elements required by the examiner. Petitioner maintains that a similar error should be entirely avoidable in the future.

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 Director to have been

"avoidable." 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 greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case by case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2D 1130 (N.D. Ind. 1987).

Petitioner's argument has been considered but is not persuasive to establish unavoidable delay. The Manual of Patent Examination section 1205.03 clearly states, "The appeal will be dismissed if the appellant does not timely file an amended brief, or files an amended brief which does not overcome all the reasons for noncompliance....". Petitioner's lack of knowledge of the rules does not equate to unavoidable delay. Nonawareness of the content of, or misunderstanding of PTO statues, PTO rules, the MPEP or Official Gazette notices, do not constitute unavoidable delay.[1]

Further the failure of petitioner's attorney to submit a compliant brief is not unavoidable. A delay resulting from an attorney's preoccupation with other legal matters or with the attorney's inadvertence or mistake is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable within the meaning of 35 USC 151 and 37 CFR 1.378 Mossinghoff, 671 F.2d at 536. The U.S. Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and the applicant is bound by the consequences of those actions or inactions.[2] Specifically, petitioner's delay caused by the mistakes or negligence of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 U.S.C. 133 or 37 CFR 1.137(a).[3] Furthermore, petitioner is reminded that the Patent and Trademark Office is not the proper forum for resolving a dispute between petitioner and petitioner's representative.[4]

---

1 Smith v. Mossinghoff, 671 F.2d 533,538, 213 U.S.P.Q. (BNA) 977 (1982). (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute unavoidable delay)); Vincent v. Mossinghoff, 1985 U.S. Dist. Lexis 23119, 13 230 U.S.P.Q. (BNA) 621 (D.D.C. 1985) (Plaintiffs through their counsel's actions or their own must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications).

2 Link v. Wabash, 370 U.S. 626, 633-34 (1962).

3 Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (D. Ind. 1987); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891).

4 Ray v. Lehman, 55 F.3d 606, 608-09, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995).

Accordingly, petitioner has failed to establish the delay in submitting a compliant appeal brief was unavoidable. While the Office appreciates that petitioner will be able to avoid such error in the future, the error made in this application was nonetheless avoidable.

If petitioner cannot provide the evidence necessary to establish unavoidable delay, or simply does not wish to, petitioner may wish to 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 $1540 petition fee.

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

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

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

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

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

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

Charlema Grant
Petitions Attorney
Office of Petitions

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NEW BRUNSWICK NJ 08933-7003

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OFFICE OF PETITIONS

In re Application of :
Burgermeister et al. :
Application No. 10/185,250 : DECISION ON PETITION
Filed: June 28, 2002 :
Attorney Docket No. CRD-1037 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 17, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This above-identified application was held abandoned for failure to timely file a supplemental appeal brief. A Notice of Non-Compliant Appeal Brief pursuant to 37 CFR 41.37 was mailed on September 19, 2005 providing applicant with an extendable one month period for reply. A non-compliant supplemental appeal brief was submitted on June 16, 2006. A Communication Re: Appeal was mailed on June 1, 2007, indicating that the appeal brief was not compliant and the application was held abandoned. The application was held abandoned on October 20, 2005. A petition under 37 CFR 1.137(a) was dismissed June 9, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a compliant appeal brief, (2) the petition fee of $1540.00, and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 3738 for appropriate action by the Examiner in the normal course of business on the reply received

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SERIAL NUMBER	REQUEST DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/185,252	7/16/02	SLATER, JR., ET AL	5308-214

Title:
FLIP-CHIP BONDING OF LIGHT EMITTING DEVICES AND LIGHT EMITTING DEVICES SUITABLE FOR FLIP-CHIP BONDING

Art Unit	Paper Number

Correspondence Address:
TIMOTHY J. O'SULLIVAN
MYERS BIGEL SIBLEY AND SAJOVEC
P.O. BOX 37428
RALEIGH, NORTH CAROLINA 27627

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License Number: 599,207

Grant Date: 17-Jul-02

Approved

for Commissioner of Patents and Trademar

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[Title 35, United States Code (1952) Sections 184, 185, 186]

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OFFICE OF PETITIONS

In re Application of :
David B. Slater, Jr. et al :
Application No. 10/185,252 : DECISION GRANTING PETITION
Filed: June 27, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 5308-214 :

This is a decision on the petition, filed August 26, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

This matter is being referred to Technology Center AU 2823 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

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Paper No. 012405

BARNES & THORNBURG
P.O. Box 2786
Chicago, IL 60690-2786

JAN 31 2005

In re Application of:
Tomihisa Yukimoto
Serial No.: 10/185,258
Filed: June 28, 2002
Attorney Docket No.: **6530-1007**

DECISION ON PETITION

This is a decision on the petition filed October 12, 2004. The petition has been treated as a petition to remail the final Office action mailed on March 02, 2004. No petition fee is required.

The petition is **GRANTED.**

The petitioner asserts that the Office action mailed on March 02, 2004 was not received. To support this assertion, petitioner provided a statement attesting that a search of the file jacket and docket records showed that the Office action was not received. A copy of the file docket where the Office action would have been entered was also included with the petition.

M.P.E.P. 707.13 states in part:

> *Letters are sometimes returned to the Office because the United States Postal Service has not been able to deliver them. The examiner should use every reasonable means to ascertain the correct address and forward the letter again, after stamping it "remailed" with the date thereof and redirecting it if there be any reason to believe that the letter would reach applicant at such new address. If the Office letter was addressed to an attorney, a letter may be written to the inventor or assignee informing him or her of the returned letter. The period running against the application begins with the date of remailing. Ex parte Gourtoff, 1924 C.D. 153, 329 O.G. 536 (Comm'r Pat. 1924).*

A review of the record shows that a final Office action was mailed on March 02, 2004, and returned by the United States Postal Service to the United States Patent and Trademark Office on March 17, 2004. From the review of the record, it does not appear that any attempts to remail the final Office action were made. Accordingly, the final Office action was not remailed pursuant to M.P.E.P. § 707.13.

For the above stated reasons, the petition is granted.

The application file is being forwarded to the Technology Center 2800 support staff for re-mailing the final Office action dated March 02, 2004. The shortened statutory period for response set therein will be reset to run three months from the date the final Office action is remailed.

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

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

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P.O. BOX 30999
PALM BEACH GARDENS FL 33420-0999

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MAY 18 2005

OFFICE OF PETITIONS

In re Application of :
William D. Killen et al :
Application No. 10/185,266 : ON PETITION
Filed: June 27, 2002 :
Attorney Docket No. 7162-26 :

This is a decision on the petition, filed May 11, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on September 27, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2817 will consider the request for continued examination under 37 CFR 1.114.

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

---

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 07/06/09

TO SPE OF : ART UNIT 2191

SUBJECT : Request for Certificate of Correction for Appl. No.: 10185267 Patent No.: 6990656 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 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: _____

W. Y. WEI ZHEN
SPE

2191
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Trop, Pruner & Hu, P.C.
Suite 100
8554 Katy Freeway
Houston, TX 77024-1841

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JUN 14 2005

OFFICE OF PETITIONS

In re Application of :
Qing Ma, et al. :
Application No. 10/185,283 : DECISION ON PETITION
Filed: June 28, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. ITL.0823US(P14594) :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 8, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of prior-filed nonprovisional Application No. 10/342,778, filed January 13, 2003 and 09/943,451 filed August 30, 2001.

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 and 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 amendment submitted concurrently with the petition as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, application no. 10/342,778 was filed subsequent to this application. As such, this application is not entitled to claim priority to the subsequently filed application.

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

Before the petition can be granted, petitioner must submit a substitute amendment with a proper reference to the prior-filed application, along with a renewed petition under 37 CFR 1.78(a)(3).[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: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Marianne Jenkins at (571) 272-3223.

Frances Hicks

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

[1] The claim for priority may also be made in an Application Data Sheet in compliance with 37 CFR 1.121 and 37 CFR 1.76(b)(5).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Trop, Pruner & Hu, P.C.
Suite 100
8554 Katy Freeway
Houston, TX 77024-1841

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AUG 2 5 2005

OFFICE OF PETITIONS

In re Application of :
Qing Man, et al. :
Application No. 10/185,283 : DECISION DISMISSING PETITION
Filed: June 28, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. ITL.0823US(P14594) :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed June 27, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of prior-filed nonprovisional Application No. 09/943,451, filed August 30, 2001.

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 and 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 amendment submitted concurrently with the petition as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). While the first page of the supplemental amendment states, "**Specification Amendments** begin on page 2 of this paper," the second page of the amendment only contains the signature of the attorney of record. There is no reference to the prior-filed application mentioned. A copy of the supplemental amendment is enclosed herewith.

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

Before the petition can be granted, petitioner must submit a proper substitute amendment, along with a renewed petition under 37 CFR 1.78(a)(3).[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 questions concerning this matter may be directed to Marianne Jenkins at (571) 272-3223.

Frances Hicks

Frances M. Hicks
Lead Petitions Examiner
Office of Petitions

Enclosure: Copy of the Supplemental Amendment filed June 27, 2005

[1] The claim for priority may also be made in an Application Data Sheet in compliance with 37 CFR 1.121 and 37 CFR 1.76(b)(5).

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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TIMOTHY N. TROP
TROP PRUNER & HU, PC
1616 S. VOSS ROAD, SUITE 750
HOUSTON TX 77057-2631

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AUG 0 4 2006

OFFICE OF PETITIONS

In re Application of :
QING MA et. al. :
Application No. 10/185,283 : DECISION ON PETITION
Filed: June 28, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. ITL.0823US (P14594) :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 6, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37

CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to Amelia Au at (571) 272-7414. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2826 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Francis Hicks
Lead Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/185,283	06/28/2002	2826	884	ITL.0823US (P14594)	5	28	3

CONFIRMATION NO. 5458

CORRECTED FILING RECEIPT

21906
TROP PRUNER & HU, PC
1616 S. VOSS ROAD, SUITE 750
HOUSTON, TX 77057-2631

OC000000019889849

Date Mailed: 08/03/2006

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

Applicant(s)

Qing Ma, San Jose, CA;
Tsung-Kuan Allen Chou, Santa Clara, CA;
Valluri Rao, Saratoga, CA;

Power of Attorney: The patent practitioners associated with Customer Number **21906**.

Domestic Priority data as claimed by applicant

This application is a CIP of 09/943,451 08/30/2001 PAT 6,531,668

Foreign Applications

If Required, Foreign Filing License Granted: 08/05/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/185,283

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Reducing the actuation voltage of microelectromechanical system switches

Preliminary Class

257

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15 (b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired

before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

FISH & RICHARDSON PC
3300 DAIN RASCHER PLAZA
60 SOUTH SIXTH STREET
MINNEAPOLIS MN 55402

COPY MAILED

MAR 1 9 2003

OFFICE OF PETITIONS

In re Application of :
Golde, et al. :
Application No. 10/185,297 : DECISION ON PETITION
Filed: June 28, 2002 :
Attorney Docket No. 07039-238001 :

This is a decision on the paper titled "Petition", filed October 11, 2002, which is being treated as a petition under 37 CFR 1.53 to accord the above-identified application a filing date of June 28, 2002, with figures 1A, 1B, 4, 5, and 6 of the drawings as a part of the original disclosure.

The petition is **DISMISSED AS MOOT**.

Application papers in the above-identified application were filed on June 28, 2002. However, on August 2, 2002, the Initial Patent Examination Division mailed applicant a "Notice to File Missing Parts of Nonprovisional Application." Applicant was notified that the application papers had been accorded a filing date; however, figures 1A, 1B, 4, 5, and 6 of the drawings described in the specification appeared to have been omitted. In addition, the oath or declaration was missing.

In response, applicant filed the instant petition, made timely by including a Certificate of Mailing dated October 2, 2002. Applicant maintains that the application as originally filed included a six page set of drawings containing the above figures. Accompanying the petition were the missing drawing figures. As evidence of receipt in the Office of the missing figures, petitioner submitted a copy of a return postcard indicating receipt of six pages of drawings were received in the Office.

A closer inspection of the file revealed that the drawings submitted with the above-identified application were incorrectly stamped by the U.S. Patent and Trademark Office and placed in the wrong application. As a result, to the extent that the "Notice to File Missing Parts of Nonprovisional Application" informed applicant that drawing figures were omitted, the Notice was mailed in error. The drawings have been located and placed in the proper file of the above-identified application.

Given the basis for dismissing the petition, the $130 petition fee has been refunded to Deposit Account No. 06-1050, as requested.

Receipt of the executed declaration, submitted with the instant petition, is acknowledged.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of June 28, 2002, using the application papers received in the Office on that date. 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 Cliff Congo at 703-305-0272.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 3/17/03 | 2 Serial/Patent # 10/185,297

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
✓	Petition	4	10/11/02	$ 130.00
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$
		7 TOTAL AMOUNT OF REFUND		$ 130.00

8 TO BE REFUNDED BY:

	Treasury Check
✓	Credit Deposit A/C #:

9 0 6 -- 1 0 5 0

10 REASON:

	Overpayment
	Duplicate Payment
✓	No Fee Due (Explanation):

Filing date petition dismissed as moot

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Cliff Congo TITLE: Petitions Attorney

SIGNATURE: Cliff Congo PHONE: 305-0272

OFFICE: Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: Alicia Kelly DATE: 3/19/03

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

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. 5

THOMAS M. BOYCE
FULBRIGHT & JAWORSKI
600 CONGRESS AVENUE, SUITE 2400
AUSTIN, TX 78701

COPY MAILED

SEP 3 0 2002

OFFICE OF PETITIONS

In re Application of :
Jeffrey Stephen Boyle :
Application No. 10/185,318 :
Filed: June 28, 2002 :
Attorney Docket No. FBRC:009USC2 :

NOTICE

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

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

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

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

This file is being forwarded to the Initial Patent Examination Unit.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Thomas M. Boyce
FULBERIGHT & JAWORSKI L.L.P.
Suite 2400
600 Congress Avenue
Austin TX 78701

MAILED

JUL 14 2010

OFFICE OF PETITIONS

In re Patent No. 7,423,016	:	DECISION ON REQUEST FOR
BOYLE et al.	:	RECONSIDERATION OF
Issue Date: September 9, 2008	:	PATENT TERM ADJUSTMENT AND
Application No. 10/185,318	:	NOTICE OF INTENT TO ISSUE
Filed: June 28, 2002	:	CERTIFICATE OF CORRECTION
Attorney Docket No. FBRC:009USC2	:	

This is a decision on the petition filed November 7, 2008, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected.

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 **five hundred forty-five (545) days**.

A review of the application history reveals that a period of reduction of 179 days was entered under 37 CFR 1.704(c)(8) for the submission of an Information Disclosure Statement (IDS) on March 31, 2003, after the filing of a reply on October 3, 2002. The record indicates that the paper filed on October 3, 2002, is an IDS, not a reply to an Office action. Under the circumstances, no reduction is warranted for the filing of the IDS on March 31, 2003. Accordingly, the reduction of 179 days of applicant delay will be removed.

The record further reveals that patentee should have been assessed applicant delay pursuant to 37 CFR 1.704(b) in responding to the non-final Office action of June 11, 2007. A review of the application history reveals that patentee filed a reply on November 9, 2007, three months and 59 day after the mailing of the non-final Office action on June 11, 2007. Accordingly, a period of reduction of 59 days will be entered.

With regard to the delay under 37 CFR 1.702(b), patentee is reminded that 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. Thus, the over three year period begins on June 29, 2005, and ends on March 28, 2007, the day before the RCE was filed, and is 638 (not 639) days. See 35 U.S.C. 154(b)(1)(B)(i).

Further, the Office notes that patentee failed to account for the filing of the notice of appeal on August 29, 2006. The Office reminds patentee that the period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii).

In this instance, the period consumed by appellate review is 212 days, beginning on the date on which the notice of appeal to the Board of Patent Appeals and Interferences was filed, August 29, 2006, and ending on the day before the filing of the RCE, March 28, 2007. Thus, B delay is 426 days (638 - 212).

In view of the above, the patent term adjustment is 545 days (487 days of A delay + 426 days of B delay - 368 days of applicant delay).

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.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District

Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges the submission of the $200.00 fee set forth in 37 CFR 1.18(e).

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 **five hundred forty-five (545) 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: 7,423,016 B2

DATED: Sep. 9, 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 151 days.

Delete the phrase "by 151 days" and insert – by 545 days--

PTA Calculations for Application: 10/185318			
Application Filing Date:	06/28/2002	PTO Delay (PTO):	639
Issue Date of Patent:	09/09/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	488
Post-Issue Petitions:	0	Total PTA (days):	545
PTO Delay Adjustment:	394		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
117	07/12/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	274		
116	07/12/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		59	
115	07/12/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	179		
110.5	08/20/2008	PTA 36 MONTHS	152		
110	09/09/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
109	08/13/2008	EXPORT TO FINAL DATA CAPTURE			
108	08/12/2008	FINISHED INITIAL DATA CAPTURE			
107	08/12/2008	DISPATCH TO FDC			
106	08/08/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
105	08/04/2008	MISCELLANEOUS INCOMING LETTER		37	
104	08/04/2008	ISSUE FEE PAYMENT VERIFIED			
103	08/04/2008	ISSUE FEE PAYMENT RECEIVED			
102	07/11/2008	SEQUENCE FORWARDED TO PUBS ON TAPE			
101	06/30/2008	EXPORT TO INITIAL DATA CAPTURE			
99	06/26/2008	MAIL NOTICE OF ALLOWANCE			
98	06/23/2008	ISSUE REVISION COMPLETED			
97	06/23/2008	DOCUMENT VERIFICATION			
96	06/23/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
95	06/19/2008	EXAMINER'S AMENDMENT COMMUNICATION			
94	06/19/2008	NOTICE OF ALLOWABILITY			
86	06/12/2008	DATE FORWARDED TO EXAMINER			
85	06/04/2008	AMENDMENT AFTER FINAL REJECTION		78	77
84	06/04/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			

83	03/18/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
82	03/11/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
81	02/22/2008	INCOMING BIOTECH SEQUENCE REQUEST			
80	11/09/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
79	11/09/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
78	11/09/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
77	12/18/2007	MAIL FINAL REJECTION (PTOL - 326)			
76	12/17/2007	FINAL REJECTION			
75	11/09/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
74	11/09/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
73	11/30/2007	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
72	11/15/2007	DATE FORWARDED TO EXAMINER			
71	10/03/2002	RESPONSE AFTER NON-FINAL ACTION			
70	11/09/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
68	10/03/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
67	10/12/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
66	03/08/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
65	06/11/2007	MAIL NON-FINAL REJECTION			
64	06/04/2007	NON-FINAL REJECTION			
63	03/28/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
62.7	03/29/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	58
62	03/29/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
61	04/04/2007	DATE FORWARDED TO EXAMINER			
60	03/28/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
59	04/04/2007	DATE FORWARDED TO EXAMINER			

58	03/29/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
57	04/04/2007	DISPOSAL FOR A RCE / CPA / R129			
56	03/29/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
55	04/04/2007	MAIL NOTICE OF RESCINDED ABANDONMENT			
54	04/04/2007	NOTICE OF RESCINDED ABANDONMENT IN TCS			
53	04/04/2007	MAIL ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
52	03/29/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
51	03/30/2007	ABAND. FOR FAILURE TO RESPOND TO O. A.			
50	09/13/2006	MAIL ADVISORY ACTION (PTOL - 303)			
49	09/06/2006	ADVISORY ACTION (PTOL-303)			
48	08/31/2006	DATE FORWARDED TO EXAMINER			
47	08/29/2006	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
46	08/29/2006	NOTICE OF APPEAL FILED		6	44
45	08/29/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
44	05/23/2006	MAIL FINAL REJECTION (PTOL - 326)			
43	05/16/2006	FINAL REJECTION			
42	03/31/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
41	10/03/2002	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
40	03/29/2006	DATE FORWARDED TO EXAMINER			
39	03/20/2006	RESPONSE AFTER NON-FINAL ACTION		94	37
38	03/20/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
37	09/16/2005	MAIL NON-FINAL REJECTION			
36	09/14/2005	NON-FINAL REJECTION			
35	07/07/2005	DATE FORWARDED TO EXAMINER			
34	06/29/2005	RESPONSE TO ELECTION / RESTRICTION FILED		94	32
33	06/29/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
32	12/27/2004	MAIL RESTRICTION REQUIREMENT	487		-1
31	12/23/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
30	06/28/2004	CASE DOCKETED TO EXAMINER IN GAU			
29	04/06/2004	CASE DOCKETED TO EXAMINER IN GAU			

28	07/30/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
27	07/08/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
26.7	03/31/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		179	71
26	03/31/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	09/17/2002	PRELIMINARY AMENDMENT			
23	07/08/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
21	12/04/2002	CASE DOCKETED TO EXAMINER IN GAU			
20	09/17/2002	NEW OR ADDITIONAL DRAWING FILED			
18	09/17/2002	PRELIMINARY AMENDMENT			
17	09/17/2002	SUBSTITUTE SPECIFICATION FILED			
16	06/28/2002	PRELIMINARY AMENDMENT			
15	10/28/2002	APPLICATION DISPATCHED FROM OIPE			
14	10/17/2002	APPLICATION IS NOW COMPLETE			
12	09/17/2002	ADDITIONAL APPLICATION FILING FEES			
10	09/17/2002	APPLICANT HAS SUBMITTED A NEW SPECIFICATION TO CORRECT CORRECTED PAPERS PROBLEMS			
9	09/30/2002	MAIL-PETITION DECISION - GRANTED			
8	09/16/2002	PETITION ENTERED			
7	07/29/2002	CORRECTED PAPER			
5	07/22/2002	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
4	07/15/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
3	07/15/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	06/28/2002	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	06/28/2002	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 04042006

DATE : 03/21/06

TO SPE OF : ART UNIT **2877**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/185363** Patent No.: **6977722**

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: All corrections approved.

SPE

2877
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5-24-05

TO SPE OF : ART UNIT 1724

SUBJECT : Request for Certificate of Correction on Patent No.: 6780225

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

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

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

Please check claims / drawing figs

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:

DUANE SMITH
SUPERVISORY PATENT EXAMINER

SPE 6-29-05

1724
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

DARBY & DARBY P.C.
Post Office Box 5257
New York NY 10150-5257

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FEB 07 2008

OFFICE OF PETITIONS

In re Application of	:	
Steven Schlaff	:	
Application No.10/185,395	:	DECISION ON PETITION
Filed: June 28, 2002	:	
Attorney Docket No. 4064/0K264	:	

This is a decision on the petition, filed October 24, 2007, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely reply to the Examiner's Answer, mailed November 2, 2006. A notice of abandonment was mailed July 18, 2007 noting applicant's failure to timely file a proper reply to the Office letter mailed on November 2, 2006.

Petitioner asserts that no reply was required from applicant in response to the Examiner's answer. The Examiner's Answer had no new grounds of rejection nor was there any indication of a response needed from applicant. Accordingly, this application was not abandoned in fact. The notice of abandonment mailed July 18, 2007 was sent in error.

In view of the above, the Notice of Abandonment is hereby withdrawn as premature.

Telephone inquiries concerning this decision should be directed to Carl Friedman at (571) 272-6842.

This application is being referred to Technology Center Art Unit 2621 for further processing in accordance with the above decision.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JULES E. GOLDBERG
REED SMITH, LLP
599 LEXINGTON AVENUE
29TH FLOOR
NEW YORK, NY 10022

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JAN 12 2006

OFFICE OF PETITIONS

In re Application of
Kenji Hori
Application No. 10/185,400
Filed: June 27, 2002
Title of Invention: JG-SU-5061C/500577.20043

ON PETITION

This is a decision on the petition filed December 16, 2005 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 June 11, 2004 for failure to timely pay the issue fee on or before June 10, 2004. Accordingly, a Notice of Abandonment was mailed July 26, 2004.

The issue fee, petition fee and publication fee have 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)).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 04/26/2010

Applicant	: Thomas M. Rothwein	: DECISION ON REQUEST FOR
Patent Number	: 7594181	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/185,401	: 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 **1302** 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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LN

PATENT
Docket No.: 57180US002

32692
Customer Number

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

JOEL D. OXMAN et al.

Serial No.: 10/185,431
Filed: June 28, 2002

Patent No. 7,134,875 B2
Issued: November 16, 2006

For: PROCESSES FOR FORMING DENTAL MATERIALS AND DEVICE

Group Art Unit: 3732
Confirmation No. 5971

Examiner: M. Bumgarner

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Certificate of Transmission	
I certify that this correspondence is being facsimile transmitted to the U.S. Patent and Trademark Office on the date indicated below:	
Sent to Facsimile No.: 571-273-8300 **ATTN: Office of Petitions** (11 pgs.)	Signature: Judy L. Hansen
Date: May 23, 2007	Printed Name: Judy L. Hansen

REQUEST TO CORRECT THE ASSIGNEE UNDER 37 CFR 3.81(b)

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Certificate
JUN 28 2007
of Correction

Dear Sir:

This is in reply to the April 19, 2007 denial of our Request Under 37 CFR 3.81(b) for Patent to Be Corrected to State the Name of the Assignee(s) and Certificate of Correction under 37 CFR 1.323.

The Notice of Denial indicates that this 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), which was submitted at the time of electronic filing as indicated on the attached fee transmittal; B) a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent, which was set forth in the first sentence of our submission of April 16, 2007 (copy attached); and C) a copy of the Notice of

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MAY 23 2007

Recordation of Assignment Document, reflecting the reel and frame number where the assignment is recorded. A copy of the Notice of Recordation is attached hereto.

This should complete the requirements for correcting the assignee on the front of the issued patent in this application to include both:

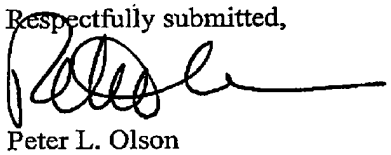
3M Innovative Properties Company, St. Paul, Minnesota 55133-3427 USA; and

3M ESPE AG, ESPE Platz, Seefeld, Germany.

A copy of the previously submitted request included the Request for Certificate of Correction along with the appropriate fee as evidenced by the copies attached hereto.

If further information or documents are required, please contact the undersigned representative.

Respectfully submitted,



Peter L. Olson
Registration No. 35,308
Attorney for Applicants

PLO:jlh/#316492 - 57180US002 Req for Cert of Correction of Assignee
Office of Intellectual Property Counsel
3M Innovative Properties Company
P.O. Box 33427
St. Paul, Minnesota 55133-3427
(651) 736-4050
Facsimile: (651) 736-3833

Dated: 23 May 2007

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MAY 30 2007
OFFICE OF PETITIONS

Electronic Patent Application Fee Transmittal	
Application Number:	10185431
Filing Date:	28-Jun-2002
Title of Invention:	PROCESSES FOR FORMING DENTAL MATERIALS AND DEVICE
First Named Inventor/Applicant Name:	Joel D. Oxman
Filer:	Nancy M. Lambert/Judy Hansen
Attorney Docket Number:	57180US002
Filed as Large Entity	

Utility Filing Fees

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Basic Filing:				
Pages:				
Claims:				
Miscellaneous-Filing:				
Petition:				
Patent-Appeals-and-Interference:				
Post-Allowance-and-Post-Issuance:				
Certificate of correction	1811	1	100	100
Extension-of-Time:				

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Miscellaneous:				
Processing Fee, except for Provis. apps	1808	1	130	130
		Total in USD ($)		**230**

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32692
Customer Number

Patent
Case No.: 57180US002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

First Named Inventor:	OXMAN, JOEL D.		
Patent No.:	7,134,875	Application No.:	10/185,431
Issued:	November 14, 2006	Confirmation No.:	5971
Title:	PROCESSES FOR FORMING DENTAL MATERIALS AND DEVICE		

REQUEST UNDER 37 CFR § 3.81(b)
FOR PATENT TO BE CORRECTED TO STATE THE NAME OF THE ASSIGNEE(S)
AND
CERTIFICATE OF CORRECTION UNDER 37 CFR § 1.323

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

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR § 1.8(a)]

I hereby certify that this correspondence is being:

☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at 571-273-8300.

Date

Signed by: Judy L. Hansen

Dear Sir:

Applicant inadvertently omitted the name of the second assignee, 3M ESPE AG, in Item 3 of the Issue Fee Transmittal (form PTOL-85) with payment of the issue fee on September 21, 2006.

REQUEST UNDER 37 CFR § 3.81(b) TO CORRECT ASSIGNEE ON PATENT

Under 37 CFR § 3.81(b), it is hereby requested that the subject patent be corrected to name both of the following assignees:

3M Innovative Properties Company, St. Paul Minnesota, 55133-3427, USA

3M ESPE AG, ESPE Platz, Seefeld, Germany

The assignment naming both assignees was submitted for recordation as set forth in 37 CFR § 3.11 before issuance of the patent.

If this request to correct the assignees is granted, please forward the file to the Certificate of Correction Branch. A Request for Certificate of Correction is also attached.

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APR 2 0 2007

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MAY 23 2007

Application No.: 10/185431 Case No.: 57180US002

CERTIFICATE OF CORRECTION UNDER 37 CFR § 1.323

It is respectfully requested that a Certificate of Correction under 37 CFR § 1.323 be issued to include the name of both assignees, **3M Innovative Properties Company and 3M ESPE AG, ESPE Platz, Seefeld, Germany,** on the patent. The required text is submitted on the attached form. Because the listed error is due to Applicant's mistake, the fee under 37 CFR § 1.20(a) is required.

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MAY 30 2007
OFFICE OF PETITIONS

PAYMENT OF FEES

☐ One copy of this sheet marked duplicate is enclosed.

☒ Please credit any overpayment to Deposit Account No. 13-3723.

☐ Both the fee for consideration of a Request for Certificate of Correction under 37 CFR § 1.323 (i.e. the fee under 37 CFR §1.20(a) and the fee under 37 CFR § 1.17(i)) were previously charged to and paid from the Assignee's (i.e., 3M Innovative Properties Company) Deposit Account No. 13-3723. Therefore, no additional fees are required.

☒ If submitted via **EFS-Web** and the fee system is functional, any required fee will be paid at the time of submission via EFS-Web. In the event fees are not or cannot be paid at the time of EFS-Web submission, or this paper is submitted via **Facsimile Transmission, First Class Mail, Express Mail, or Hand Carried** to the United States Patent and Trademark Office, please charge to Deposit Account No. 13-3723 any fees under 37 CFR §§ 1.16 and 1.17, which may be required.

- ☒ Processing fee provided in 37 CFR § 1.17(i).
- ☒ Certificate of Correction fee provided in 37 CFR § 1.20(a).

Respectfully submitted,

12 April 2007
Date

By: _____
Peter L. Olson, Reg. No.: 35,308
Telephone No.: 651-736-4050

#300710 - 57180US002 Req for Correct Assignee and Cert of Correction
Office of Intellectual Property Counsel
3M Innovative Properties Company
Facsimile No.: 651-736-3833

Staple Here Only! Printer's Trim Line

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.: 7,134,875

DATED: November 14, 2006

FIRST NAMED INVENTOR: OXMAN, JOEL D.

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

Title Page
In "Item (73) Assignee:", after 3M Innovative Properties Company, St. Paul, MN (US), insert --3M ESPE AG, Seefeld, Germany --.

Title Page, page 2
Under "Item (56). **References Cited**, under OTHER PUBLICATIONS, 9th item listed on page 2, delete "Gernab" and insert in place thereof --German--.

Column 9
Line 15, delete "(Köihler" and insert in place thereof --(Köhler--.

Column 18
Line 42, delete "polymermizable" and insert in place thereof --polymerizable--.

Column 20
Line 7, delete "guage" and insert in place thereof --gauge--.

Column 27
Line 26, delete "preset" and insert in place thereof --present--.

Column 28
Line 9, delete "Phosphine" and insert in place thereof --phosphine--.
Line 29, delete "en" and insert in place thereof --an--.
Line 41, delete "photoinitiator" and insert in place thereof --diketone--.

MAILING ADDRESS OF SENDER:

OFFICE OF INTELLECTUAL PROPERTY COUNSEL
3M INNOVATIVE PROPERTIES COMPANY
3M CENTER - P.O. BOX 33427
SAINT PAUL, MINNESOTA 55133-3427

PATENT NO. 7,134,875

No. of add'l copies: - 0-
@ 50¢ per page

No add'l copies

Acknowledgement Receipt

The USPTO has received your submission at **10:49:40** Eastern Time on **16-APR-2007** by Deposit Account: 133723.

$ **230** fee paid by e-Filer via *RAM* with Confirmation Number: 1731.

You have also pre-authorized the following payments from your USPTO Deposit Account:

Charge any Additional Fees required under 37 C.F.R. Section 1.16 and 1.17

eFiled Application Information

EFS ID	1684272
Application Number	10185431
Confirmation Number	5971
Title	PROCESSES FOR FORMING DENTAL MATERIALS AND DEVICE
First Named Inventor	Joel D. Oxman
Customer Number or Correspondence Address	32692
Filed By	Nancy M. Lambert/Judy Hansen
Attorney Docket Number	57180US002
Filing Date	28-JUN-2002
Receipt Date	16-APR-2007
Application Type	Utility

Application Details

Submitted Files	Page Count	Document Description	File Size	Warnings
57180US002_Req_for_Correct_Assignee_and_Cert_of_Correction.PDF	3	Request for Certificate of Correction	1596569 bytes	PASS
fee-info.pdf	2	Fee Worksheet (PTO-06)	8322 bytes	PASS

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111

If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office

If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the

PAGE 8/11 * RCVD AT 5/23/2007 2:51:19 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-2/14 * DNIS:2738300 * CSID:6517334751 * DURATION (mm-ss):03-44

application.

If you need help:

- *Call the Patent Electronic Business Center at (866) 217-9197 (toll free) or e-mail EBC@uspto.gov for specific questions about Patent e-Filing.*
- *Send general questions about USPTO programs to the USPTO Contact Center (UCC).*
- *If you experience technical difficulties or problems with this application, please report them via e-mail to Electronic Business Support or call 1 800-786-9199.*

PAGE 9/11 * RCVD AT 5/23/2007 2:51:19 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-2/14 * DNIS:2738300 * CSID:6517334751 * DURATION (mm-ss):03-44

57180 US002

CORRECTED NOTICE

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

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MARCH 17, 2005

PTAS

3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

OFFICE OF INTELLECTUAL
PROPERTY COUNSEL
3M INNOVATIVE PROPERTIES COMPANY

MAR 2 1 2005

SJE

UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 08/10/2004 REEL/FRAME: 015003/0754
NUMBER OF PAGES: 6

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:
OXMAN, JOEL D. DOC DATE: 07/28/2004

ASSIGNOR:
CRAIG, BRADLEY D. DOC DATE: 07/28/2004

ASSIGNOR:
KALGUTKAR, RAJDEEP S. DOC DATE: 07/28/2004

ASSIGNOR:
PEUKER, MARC DOC DATE: 12/18/2003

ASSIGNOR:
BISSINGER, PETER DOC DATE: 01/19/2004

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015003/0754 PAGE 2

ASSIGNEE:
3M INNOVATIVE PROPERTIES COMPANY
P.O. BOX 33427
ST. PAUL, MINNESOTA 55133-3427

ASSIGNEE:
3M ESPE AG
ESPE PLATZ
SEEFELD, FED REP GERMANY

SERIAL NUMBER: 10185431 FILING DATE: 06/28/2002
PATENT NUMBER: ISSUE DATE:
TITLE: PROCESSES FOR FORMING DENTAL MATERIALS AND DEVICE

DIANE RUSSELE, PARALEGAL
ASSIGNMENT DIVISION
OFFICE OF PUBLIC RECORDS

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MAY 30 2007
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Paper No. 13

GREER BURNS & CRAIN
300 S WACKER DRIVE, 25TH FLOOR
CHICAGO, IL 60606

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FEB 24 2004

OFFICE OF PETITIONS

In re Application of :
Srinivas Veeramasuneni et al :
Application No. 10/185,481 : DECISION GRANTING PETITION
Filed: June 28, 2002 : UNDER 37 CFR 313(c)(2)
Attorney Docket No. 2033.66559 :

This is a decision on the petition, filed February 20, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 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) 305-8680.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 1775 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

AUG 13 2007

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

MUETING, RAASCH & GEBHARDT, P.A.
P.O. BOX 581415
MINNEAPOLIS MN 55458

In re Application of :
Daryll A. Emery et al :
Serial No.: 10/185,498 : PETITION DECISION
Filed: June 28, 2002 :
Attorney Docket No.: 293.0004 0104 :

This is in response to the petition under 37 CFR 1.48(a), filed December 22, 2005, requesting correction of inventorship in this abandoned application. It is noted that a notice of Abandonment was mailed to applicants on October 12, 2005.

The petition is **GRANTED.**

Office records will be changed to show only Daryll A. Emery and Darren E. Straub as inventors.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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#8

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

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FEB 13 2004

OFFICE OF PETITIONS

In re Application of
Michael A. Vyvoda et al
Application No. 10/185,507
Filed: June 27, 2003
Attorney Docket No. 03558.P027

ON PETITION

This is a decision on the petition, filed February 10, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 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 should be directed to Irvin Dingle at (703) 306-5684.

After receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2813 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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BANNER & WITCOFF
1001 G STREET NW, SUITE 1100
WASHINGTON, DC 20001

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APR 07 2006

OFFICE OF PETITIONS

In re Application of :
Kari J. Kangas et al :
Application No. 10/185,542 : DECISION GRANTING PETITION
Filed: June 27, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 006474.00008 :

This is a decision on the petition, filed April 6, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 2, 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 2628 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the accompanying Information Disclosure Statement and amendment.

Frances Hicks
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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EI DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON DE 19805

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MAR 18 2008

OFFICE OF PETITIONS

In re Application of :
Owen H. Decker et al :
Application No. 10/185,545 : DECISION GRANTING PETITION
Filed: June 28, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. DPT.0002P2US :

This is a decision on the petition under 37 CFR 1.137(b), filed July 30, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection of August 31, 2006, is accepted as having been unintentionally delayed.

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

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

This matter is being referred to Technology Center AU

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

HILMAR L. FRICKE
1313 N MARKET STREET, P.O. BOX 951
WILMINGTON, DELAWARE 19899-0951

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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INTEL/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN, LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

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MAR 06 2009

OFFICE OF PETITIONS

In re Application of :
Adam T. Lake, et. al. :
Application No. 10/185,577 : ON PETITION
Filed: June 28, 2002 :
Attorney Docket No. 042390.P13655 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 31, 2008, to revive the above-identified application.

The application became abandoned for failure to file a proper reply to the final Office action mailed February 27, 2007. A Notice of Abandonment was mailed on September 27, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) with the $810 fee and required submission under 37 CFR 1.114; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 2624 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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

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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JJGJr: 08-05

Paper No: __

JOSEPH A. SAWYER, JR.
SAWYER LAW GROUP LLP
P.O. BOX 51418
PALO ALTO CA 94303

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AUG 2 6 2005

OFFICE OF PETITIONS

In re Application of	:	
Chaney, et al.	:	
Application No. 10/185,606	:	NOTICE
Filed: 27 June, 2002	:	
Attorney Docket No. M050/2524P	:	

This is a notice regarding the request for acceptance of a fee deficiency submission (properly considered under 37 C.F.R. §1.28) filed 7 October, 2004, and resubmitted on 19 August, 2005.

The Office regrets the delay in addressing this matter.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 C.F.R. §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 C.F.R. §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 C.F.R. §1.28 hereby is **ACCEPTED**

This file is released to image file wrapper (IFW) storage.

Inquiries regarding this application should be directed to the Technology Center. The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

JAMES E. BRUNTON
Patent, Trademark and Copyright
Matters
P. O. Box 29000
Glendale, CA 91203

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NOV 0 4 2002

OFFICE OF PETITIONS

In re Application of:
Dale Lookholder, Christopher B. Caston, Joaquin G. Serrano and Theodore Lookholder
Application No. 10/185,665
Filed: June 27, 2002
Title of Invention: STAMPING DEVICE

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the Petition Under 37 CFR 1.47(a) for Filing by Assignee, which is treated as a petition under 37 CFR 1.47(a)[1], to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **granted**.

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

Petitioner has shown that the non-signing inventor, Christopher B. Caston, refuses to sign the declaration after having been presented with the above-identified application and declaration.

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

The application file is being forwarded to Technology Center AU 2854 for examination in due course.

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

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

[1] A petition under 37 CFR 1.47(b) is filed to allow the person to whom the inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, to make application for patent on behalf of and as agent for all the inventors.

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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D. MITCHELL GOODRICH
J.M. HUBER CORPORATION
333 THORNALL STREET
EDISON, NJ 08837-2220

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FEB 28 2006

OFFICE OF PETITIONS

In re Application of :
Michael C. Withiam et al :
Application No. 10/185,673 : ON PETITION
Filed: June 28, 2002 :
Attorney Docket No. 01-240 :

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

The petition is **GRANTED**.

The above-identified application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 1.17(c)) within the time period provided in 37 CFR 1.192(a). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed April 18, 2005, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.192(b) & 1.197(c). As no claim was allowed, the-above-identified application became abandoned on June 19, 2005. See MPEP 1215.04.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Appeal Brief; (2) the petition fee; and (3) the required statement of unintentional delay have been received.

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

This matter is being referred to Technology Center AU 1618.

Wan Laymon
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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IBM CORP (YA)
C/O YEE & ASSOCIATES PC
P.O. BOX 802333
DALLAS, TX 75380

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FEB 06 2007

OFFICE OF PETITIONS

In re Application of

Garrison, et al. :

Application No. 10/185,683

: DECISION ON PETITION

Filed: June 27, 2002

:

Attorney Docket No. AUS920020354US1

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

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 12, 2005, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on October 13, 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 application is being forwarded to Technology Center 2100, GAU 2195 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
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ALEXANDRIA, VA 22313-1450
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Hamilton & Terrile, LLP
IBM Austin
P.O. Box 203518
Austin, TX 78720

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DEC 0 4 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Scott J. Broussard, et. al. :
Application No. 10/185,684 :
Filed: June 27, 2002 :
Attorney Docket No. AUS920020356US1 :

This is a decision on the petition under 37 CFR 1.137(b), filed on October 26, 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 November 1, 2004. A Notice of Abandonment was mailed on October 12, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 2167, for review of the amendment filed with the instant petition.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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HAMILTON & TERRILE, LLP
IBM Austin
P.O. BOX 203518
AUSTIN TX 78720

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FEB 04 2010

OFFICE OF PETITIONS

In re Application of :
Scott J. Broussard, et al. :
Application No. 10/185,684 : ON PETITION
Filed: June 27, 2002 :
Attorney Docket No. AUS920020356US1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 9, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed April 7, 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) was obtained. Accordingly, the application became abandoned on July 8, 2009. The Notice of Abandonment was mailed October 30, 2009.

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

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). The amendment filed herewith petition ***does not*** prima facie place the application in condition for allowance.

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.

Terri Johnson
Petitions Examiner
Office of Petitions

Enclosed: Examiner's Advisory Action PTOL-303

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/185,684	**Applicant(s)** BROUSSARD ET AL.	
	Examiner KUEN S. LU	**Art Unit** 2156	

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

THE REPLY FILED 09 November 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *See 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: *1-30*.
   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: See Continuation Sheet.

/Kuen S Lu/
Primary Examiner, Art Unit 2156

Continuation of items 3 and 13. Other: As claim 7-9 are amended which raised new issue and, a search more than cursory is needed.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HAMILTON & TERRILE, LLP
IBM Austin
P.O. BOX 203518
AUSTIN TX 78720

MAILED

APR 16 2010

OFFICE OF PETITIONS

In re Application of	:	
Scott J. Broussard, et al.	:	
Application No. 10/185,684	:	ON PETITION
Filed: June 27, 2002	:	
Attorney Docket No. AUS920020356US1	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed April 5, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 7, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is July 8, 2009. The Notice of Abandonment was mailed October 30, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2991.

This application is being referred to Technology Center AU 2156 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.

Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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LEONARD & PROEHL, PROF. L.L.C.
3500 SOUTH FIRST AVENUE CIRCLE
SUITE 250
SIOUX FALLS, SD 57105

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JUL 15 2005

OFFICE OF PETITIONS

In re Application of :
Richard J.H. Perkin :
Application No. 10/185,688 : ON PETITION
Filed: June 28, 2002 :
Attorney Docket No. 21-0456 :

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

In response to the Notice of Allowance and Fee(s) Due mailed December 26, 2003, petitioner hereby submits $750 for the petition to revive fee, $700 for payment of the issue fee, and the statement of unintentional delay.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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MAR 0 5 2007

OFFICE OF PETITIONS

In re Application of :
Gainey : DECISION ON PETITION
Application No. 10/185,720 :
Filed: July 1, 2002 :
For: 82078-0004 :

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

This application became abandoned for failure to timely reply to the final Office action mailed September 14, 2005. The Office action set a three month shortened statutory period of time for reply. No extensions of time in accordance with 37 CFR 1.136(a) were timely requested. Notice of Abandonment was mailed September 5, 2006.

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

The instant petition fails to satisfy requirement (1) set forth above. Petitioner has failed to submit a proper reply to the Office action. The examiner of record has deemed that the amendment submitted with the instant petition fails to place the application in condition for allowance. Any renewed petition must include a proper reply to the outstanding Office action. The reply may consist of an amendment that *prima facie* places the application in condition for allowance; a request for continued examination; a notice of appeal, or a continuation application.

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: (51) 273-8300

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: PTOL-303

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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IP GROUP, COLUMBIA SQUARE
555 THIRTEENTH STREET, N.W.
WASHINGTON DC 20004

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JUN 21 2007

OFFICE OF PETITIONS

In re Application of :
Gainey : DECISION ON PETITION
Application No. 10/185,720 :
Filed: July 1, 2002 :
Atty. Dkt. No.: 82078-0004 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed May 7, 2007, 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 September 14, 2005. The Office action set a three month shortened statutory period of time for reply. No extensions of time in accordance with 37 CFR 1.136(a) were timely requested. Notice of Abandonment was mailed September 5, 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(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 2100 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

SCAN! **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/24/08

TO SPE OF : ART UNIT 1626 Golan SHAMEEM

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/185731 Patent No.: 6974830

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

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

/Joseph K. McKane/
SPE

1626
Art Unit

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

Dowell & Dowell, P.C.
Suite 309
1215 Jefferson Davis Hwy
Arlington VA 22202-3124

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FEB 2 8 2003

OFFICE OF PETITIONS

In re Application of
Vanstone, et al.
Application No. 10/185,735
Filed: July 1, 2002
Attorney Docket No. 14047 CIP
For: STRENGTHENED PUBLIC KEY PROTOCOL

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed December 24, 2002.

The petition is granted.

Petitioners have shown that non-signing inventors Minghua Qu and Donald B. Johnson have constructively refused to join in the filing of the above-identified application. Specifically, the declaration of John Goyo, a patent coordinator working for the former employer of the non-signing inventors, establishes that the inventors were mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that they sign and return the declaration. Mr. Johnson received multiple copies of the application and declaration and did not return a signed declaration. Mr. Qu's last known address was confirmed by his acceptance of a registered letter informing him that a copy of the application and a declaration for his signature would be forthcoming. Mr. Qu did not pick up two subsequent mailings that contained the application and declaration. Petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

After this decision is mailed, the above-identified application will be forwarded to Technology Center 2100 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MINGHUA QU
5495 MIDDLEBURY DRIVE
MISSISSUGA, ONTARIO
L5M 5G7
CANADA

COPY MAILED

FEB 2 8 2003

OFFICE OF PETITIONS

In re Application of
Vanstone, et al.
Application No. 10/185,735
Filed: July 1, 2002
Attorney Docket No. 14047 CIP
For: STRENGTHENED PUBLIC KEY PROTOCOL

LETTER

Dear Mr. Qu:

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

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: Dowell & Dowell, P.C.
Suite 309
1215 Jefferson Davis Hwy
Arlington VA 22202-3124

UNITED STATES 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

JENS E. HOEKENDIJK
P.O. Box 4787
Burlingame, CA 94011-4787

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JUN 0 3 2004

OFFICE OF PETITIONS

In re Application of :
Lewis, et al. :
Application No. 10/185,766 : ON PETITION
Filed: June 26, 2002 :
Attorney Docket No. 18558-140-C1 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 3, 2004 (originally filed April 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)."

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 October 29, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 30, 2002. A Notice of Abandonment was mailed on January 28, 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 petition fee has not been submitted. Deposit account no. 50-1247 had insufficient funds at the time of submission. As such, the petition cannot be reviewed on the merits and 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

JENS E. HOEKENDIJK
P.O. BOX 4787
BURLINGAME, CA 94011-4787

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JUL 2 1 2004

OFFICE OF PETITIONS

In re Application of :
Lewis, et al. :
Application No. 10/185,766 : ON PETITION
Filed: June 26, 2002 :
Attorney Docket No. 18558-140-C1 :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed October 29, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 30, 2002. A Notice of Abandonment was mailed on January 28, 2004.

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

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Unites States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AT&T Legal Department - HFZ
ATTN. Patent Docketing
One AT&T Way
Room 2A-207
Bedminstor, NJ 07921

Mail Date: 06/03/2010

Applicant	: William Scott Taylor	: DECISION ON REQUEST FOR
Patent Number	: 7636320	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/185,771	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/28/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1429** 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.

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)
6554050	2003-04-29	10185787	2002-06-28	D5093-CONT.

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	/Jeffrey P. Calfa/	Date (YYYY-MM-DD)	2007-08-08
Name	Jeffrey P. Calfa	Registration Number	37105

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.

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent No. 6554050
Issue Date: April 29,2003
Application No. 10185787
Filed: June 28,2002
Attorney Docket No. D5093-CONT.

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

This is a decision on the electronic petition, filed August 8,2007 ,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 8,2007 . 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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United States Patent and Trademark Office
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MERCHANT & GOULD PC
P O BOX 2903
MINNEAPOLIS, MN 55402-0903

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JUL 16 2004

OFFICE OF PETITIONS

In re Application of :
Masanori Higashi et al :
Application No. 10/185,793 : DECISION ON PETITION
Filed: June 27, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 10873.995US01 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 17, 2004, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED as moot**.

Unfortunately, the instant petition was not received within sufficient time in the deciding official's office to avert the issuance of the above-identified application into a patent. The Office sincerely apologizes for any inconvenience caused petitioner in this matter.

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

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

Since this application has issued, the concurrently filed request for continued examination (RCE) is improper and will not be processed. In view thereof, the $770 filing fee submitted therefor, as well as the petition fee of $130, will be refunded in due course.

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

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

HAMRE, SCHUMANN, MUELLER & LARSON P.C.
P.O. BOX 2902-0902
MINNEAPOLIS, MN 55402

In re Patent No. 6,914,373
Application No. 10/185,794
Filing Date: June 27, 2002
Issue Date: July 5, 2005
Attorney Docket No. 10873.982US01

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.182, filed September 30, 2005, requesting issuance of duplicate Letters of Patent for the above-identified patent.

The petition is **granted.**

The file record discloses that the instant application matured into U.S. Patent No. 6,914,373 on July 5, 2005.

In view of the facts set forth in the petition, it is concluded that the assignee never received the patent. The Publishing Division is directed to issue duplicate Letters of Patent.

Any questions concerning this decision may be directed to the undersigned at (571)272-3222. Any questions concerning issuance of the duplicate Letter of Patent should be directed to Krystal Paige at (571)273-9756.

A copy of this decision is being forwarded to the Publishing Division for issuance of a duplicate Letter of Patent. The patent file is being forwarded to the Files Repository.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc: Krystal Paige, P/OPPD/ST 8C32, (Fax 571-273-9756)

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 9

THOMAS M. BOYCE
FULBRIGHT & JAWORSKI
SUITE 2400
600 CONGRESS AVENUE
AUSTIN, TX 78701

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OCT 0 3 2002

OFFICE OF PETITIONS

In re Application of :
Jeffrey Stephen Boyle et al :
Application No. 10/185,799 : NOTICE
Filed: June 28, 2002 :
Attorney Docket No. FBRC:009USC1 :

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

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

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

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

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

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

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

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JUL 14 2010

OFFICE OF PETITIONS

In re Patent No. 7,423,023	:	DECISION ON REQUEST FOR
BOYLE et al.	:	RECONSIDERATION OF
Issue Date: September 9, 2008	:	PATENT TERM ADJUSTMENT AND
Application No. 10/185,799	:	NOTICE OF INTENT TO ISSUE
Filed: June 28, 2002	:	CERTIFICATE OF CORRECTION
Atty. Docket No. 029860-0155	:	

This is a decision on the petition filed on November 7, 2008, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by nine hundred forty-three (943) 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 **seven hundred twenty-six (726) days**.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the B delay period, the over three year period begins on June 29, 2005, and ends on October 14, 2007, the day before the RCE was filed, and is 838 (not 839) days. See 35 U.S.C. 154(b)(1)(B)(i). Further, the Office notes that patentee failed to account for the filing of the notice of appeal on

March 13, 2007. The Office reminds patentee that the period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii).

In this instance, the period consumed by appellate review is 216 days, beginning on the date on which the notice of appeal to the Board of Patent Appeals and Interferences was filed, March 13, 2007, and ending on the day before the filing of the RCE, October 14, 2007. Thus, B delay is 622 days (838 - 216).

Accordingly, the patent term adjustment is 726 days (487 days of A delay + 622 days of B delay - 383 days of applicant delay).

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 37 CFR 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges the submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fee is required.

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 **seven hundred twenty-six (726) 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: 7,423,023 B2

DATED: Sep. 9, 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 456 days.

Delete the phrase "by 456 days" and insert – by 726 days--

Day : Tuesday
Date: 7/13/2010

Time: 13:19:06

PALM INTRANET

PTA Calculations for Application: 10/185799			
Application Filing Date:	06/28/2002	PTO Delay (PTO):	839
Issue Date of Patent:	09/09/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	383
Post-Issue Petitions:	0	Total PTA (days):	726
PTO Delay Adjustment:	270		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
104	07/13/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	270		
99.5	08/20/2008	PTA 36 MONTHS	352		
99	09/09/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
98	08/07/2008	EXPORT TO FINAL DATA CAPTURE			
97	08/06/2008	DISPATCH TO FDC			
96	08/06/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
95	07/31/2008	ISSUE FEE PAYMENT VERIFIED			
94	07/31/2008	ISSUE FEE PAYMENT RECEIVED			
93	07/09/2008	FINISHED INITIAL DATA CAPTURE			
92	05/16/2008	SEQUENCE FORWARDED TO PUBS ON TAPE			
91	05/05/2008	EXPORT TO INITIAL DATA CAPTURE			
90	05/01/2008	MAIL NOTICE OF ALLOWANCE			
89	04/29/2008	ISSUE REVISION COMPLETED			
88	04/29/2008	DOCUMENT VERIFICATION			
87	04/30/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
86	04/30/2008	CASE DOCKETED TO EXAMINER IN GAU			
85	04/30/2008	NOTICE OF ALLOWABILITY			
82	03/08/2008	DATE FORWARDED TO EXAMINER			
81	02/13/2008	RESPONSE AFTER NON-FINAL ACTION			
80	12/13/2007	MAIL NON-FINAL REJECTION			
79	12/11/2007	NON-FINAL REJECTION			
78	10/15/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
77	10/15/2007	INFORMATION DISCLOSURE STATEMENT			

		CONSIDERED			
75	10/24/2007	CORRESPONDENCE ADDRESS CHANGE			
74	10/24/2007	DATE FORWARDED TO EXAMINER			
73	10/15/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
72	10/24/2007	DATE FORWARDED TO EXAMINER			
71	10/15/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
70	10/24/2007	DISPOSAL FOR A RCE / CPA / R129			
69	10/15/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
68	10/15/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
67	09/18/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
66	10/15/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
65	10/11/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
64	03/08/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
63	03/26/2007	MAIL ADVISORY ACTION (PTOL - 303)			
62	03/21/2007	ADVISORY ACTION (PTOL-303)			
48	09/18/2002	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
47	03/31/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
45.7	03/31/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
45	03/31/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
44	03/13/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
43.7	03/13/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
43	03/13/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
42	03/19/2007	DATE FORWARDED TO EXAMINER			
41	03/13/2007	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
40	03/13/2007	NOTICE OF APPEAL FILED		90	38
39	03/13/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			

38	09/13/2006	MAIL FINAL REJECTION (PTOL - 326)			
37	09/07/2006	FINAL REJECTION			
36	07/13/2006	DATE FORWARDED TO EXAMINER			
35	07/03/2006	RESPONSE AFTER NON-FINAL ACTION		105	28
34	07/03/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
33	09/16/2005	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
32	09/16/2002	PRELIMINARY AMENDMENT			
31	06/28/2002	PRELIMINARY AMENDMENT			
30	03/29/2006	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
29	03/29/2006	DATE FORWARDED TO EXAMINER			
28.1	03/20/2006	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
28	03/20/2006	RESPONSE AFTER NON-FINAL ACTION		94	26
27	03/20/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
26	09/16/2005	MAIL NON-FINAL REJECTION			
25	09/14/2005	NON-FINAL REJECTION			
24	07/07/2005	DATE FORWARDED TO EXAMINER			
23	06/29/2005	RESPONSE TO ELECTION / RESTRICTION FILED		94	21
22	06/29/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
21	12/27/2004	MAIL RESTRICTION REQUIREMENT	487		-1
20	12/23/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
19	06/28/2004	CASE DOCKETED TO EXAMINER IN GAU			
18	04/06/2004	CASE DOCKETED TO EXAMINER IN GAU			
17	07/24/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
16	07/08/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
15	03/21/2003	CASE DOCKETED TO EXAMINER IN GAU			
14	12/26/2002	APPLICATION DISPATCHED FROM OIPE			
13	12/10/2002	APPLICATION IS NOW COMPLETE			
12	09/16/2002	ADDITIONAL APPLICATION FILING FEES			
11	10/03/2002	MAIL-PETITION DECISION - GRANTED			
10	09/16/2002	APPLICANT HAS SUBMITTED A NEW SPECIFICATION TO CORRECT CORRECTED			

		PAPERS PROBLEMS			
9	09/16/2002	PETITION ENTERED			
8	08/05/2002	CORRECTED PAPER			
5	07/30/2002	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
4	07/16/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
3	06/28/2002	INITIAL EXAM TEAM NN			
2	06/28/2002	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	06/28/2002	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Paper No. 5

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DEC 16 2002

OFFICE OF PETITIONS

Tiffany L. Townsend
IBM Corporation
Zip 482
2070 Route 52
Hopewell Junction NY 12533

In re Application of
Li, Barbee, Cline, Gilhooly, Wang, and Wei
Application No. 10/185,818
Filed: June 7, 2002
Attorney Docket No. FIS920010280US1
For: METHOD FOR DETECTING CMP ENDPOINT IN ACIDIC SLURRIES

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed October 29, 2002 (certificate of mailing dated October 28, 2002.)

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

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

The above-identified application was filed on June 27, 2002, without an executed oath or declaration. Accordingly, a "Notice to File Missing Parts of Nonprovisional Application" was mailed on August 28, 2002, requiring an properly executed oath or declaration and replacement drawings.

On October 29, 2002, petitioner filed the instant petition and replacement drawings.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee,

(4) a statement of the last known address of the non-signing inventor,

The instant petition lacks items (1) and (4) as set forth above.

As to item (1), petitioner has not satisfactorily proven that diligent efforts were made to locate the non-signing inventor. A standard of what is necessary to establish that diligent efforts were made to locate the non-signing inventor is found in *Manuel of Patent Examining Procedure*, Section 409.03(d) and provides, in pertinent part, as follows:

> Where inability to find or reach a non-signing inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, an affidavit or declaration of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made. . . The affidavit or declaration of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as certified mail return receipt, cover letter of instructions, telegrams, etc. that support a finding that the non-signing inventor could not be found or reached should be part of the affidavit or declaration. It is important that affidavit or declaration contain statements of facts as opposed to conclusions.

The statement offered by Ms. Tiffany Townsend is based solely on hearsay as it only describes the alleged efforts of other parties relative to locating the non-signing inventors. Petitioner must either provide statements offered by the "technical managers" for the non-signing inventors and inventor Wei, or petitioner must make a diligent effort to locate the non-signing inventors and then offer a first-hand account of the efforts undertaken. Petitioner is cautioned that either a statement offered by petitioner, or by the technical managers and inventor Wei must contain statements of facts as to the diligent efforts made, not mere conclusions. The Office will determine from the statements provided whether a diligent effort has been made to locate the non-signing inventors.

As to item (4), the instant petition did not contain a statement of the last known addresses of the non-signing inventors. Any renewed petition filed must include a statement of the last known address of the non-signing inventors.

Deposit account 09-0458 will be assessed $130.00 for the instant petition fee.

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

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

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

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

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions
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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James A. Gilhooly
1947 Georgia Middle Road
St. Albans, VT 05478

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MAY 2 9 2003

OFFICE OF PETITIONS

In re Application of
Li, Barbee, Cline, Gilhooly, Wang, and Wei
Application No. 10/185,818
Filed: June 7, 2002
Attorney Docket Number: FIS920010280US1
For: METHOD FOR DETECTING CMP ENDPOINT IN ACIDIC SLURRIES

LETTER

Dear Mr. Gilhooly:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Kenya A. McLaughlin at (703) 305-0010. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Tiffany L. Townsend
IBM Corporation Zip 482
2070 Route 52
Hopwell Junction, NY 12533

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Paper No. 9

Tiffany L. Townsend
IBM Corporation
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2070 Route 52
Hopewell Junction, NY 12533

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OFFICE OF PETITIONS

In re Application of
Li, Barbee, Cline, Gilhooly, Wang, and Wei
Application No.: 10/185,818
Filed: June 7, 2002
Attorney Docket No: FIS920010280US1
For: METHOD FOR DETECTING CMP ENDPOINT IN ACIDIC SLURRIES

DECISION ACCORDING STATUS UNDER RULE 47(a)

This is in response to the second renewed petition under 37 CFR 1.47(a), filed May 16, 2003.

The second renewed petition is **GRANTED**.

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

A "Notice to File Missing Parts of Non-Provisional Application" ("Notice") was mailed to petitioner on August 28, 2002, indicating that petitioner did not to file a proper oath or declaration in compliance with 37 CFR 1.63. The Notice also advised petitioner that a $130.00 surcharge was also due because a proper oath or declaration was not timely filed. The Notice set forth a period of reply of two months from its mailing date and indicated that extensions of time for reply were available pursuant to 37 CFR 1.136(a). A first petition under 37 CFR 1.47(a) was filed on October 29, 2002, but was dismissed by a decision mailed December 16, 2002. A petition for reconsideration was then filed on April 16, 2003, but was also dismissed by a decision mailed April 22, 2003. The instant second renewed petition was then filed on May 16, 2003.

Petitioner filed several exhibits through which petitioner established that although the inventor Gilhooly was presented with a complete copy of the application papers, inventor Gilhooly has, to date, failed to execute the same.

Inventor Gilhooly's failure to return the declaration, in spite of his receipt of the same, will be interpreted as constructive refusal to join the prosecution of the application. Petitioner was able to secure a signed declaration for inventor Cline; the declaration is noted and made of record.

Petitioner has shown that the non-signing inventor has refused to join the filing of the above-identified application after having been presented with the application papers, and the above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing

inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Paper No. 5

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APR 22 2003

OFFICE OF PETITIONS

Tiffany L. Townsend
IBM Corporation
Zip 482
2070 Route 52
Hopewell Junction NY 12533

In re Application of
Li, Barbee, Cline, Gilhooly, Wang, and Wei
Application No. 10/185,818
Filed: June 7, 2002
Attorney Docket No. FIS920010280US1
For: METHOD FOR DETECTING CMP ENDPOINT IN ACIDIC SLURRIES

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This is a decision on the renewed petition under 37 CFR 1.47(a), filed April 16, 2003.

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

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

A petition under 37 CFR 1.47(a) was first filed on October 29, 2002, and was dismissed by a decision mailed December 16, 2002. The decision allowed an extendable period of two months from its mailing date for a response. On April 16, 2003, the instant renewed petition was filed along with a request for an extension of time for reply within the second month.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee,

(4) a statement of the last known address of the non-signing inventor,

The instant petition lacks item (1) above.

Relative to inventor Gilhooly, petitioner has asserted that he cannot be reached. This conclusion is not supported by the evidence in that petitioner provided a copy of a certified mail receipt signed by Mr. Gilhooly which establishes that petitioner was able to locate him. Petitioner has not, however, established that inventor Gilhooly was presented with a complete copy of the application papers. The correspondence sent to Mr. Gilhooly only reminds Mr. Gilhooly of his obligations and requests that he contact petitioner so that the application papers can be provided to him. Where, as in this case, the whereabouts of the non-signing inventor are known, petitioner must provide him with a complete copy of the application papers. Inventor Gilhooly cannot be said to have refused to join the application if he has not be given an opportunity to review the complete application papers. See MPEP 409.03(d). Petitioner must establish

that Inventor Gilhooly was presented with a complete copy of the application papers before he will be deemed to have refused to join the above-cited application.

Relative to inventor Cline, petitioner has again improperly provided second-hand information relative to diligent efforts made to locate inventor Cline. In the dismissal of December 16, 2002, petitioner was advised that the statements relative to the diligent efforts made must come from the person or persons who undertook such efforts. It is not sufficient for Ms. Townsend to state that the technical manger for inventor Cline tried to contact him via phone and mail; these claims must be made in statement provided by the technical manager(s) responsible for the same. Petitioner is strongly encouraged to consult Section 409.03(d) of the Manual of Patent Examining Procedure for further guidance in fulfilling this requirement.

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

By mail[1] : Commissioner for Patents
Box DAC
Washington, DC 20231

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

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

[1]Effective May 1, 2003, the mailing address for the Office of Petitions will be: Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

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Paper No. 6

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FEB 2 5 2003

OFFICE OF PETITIONS

Tiffany L. Townsend
IBM Corporation -Zip 482
2070 Route 52
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In re Application of
Li, et al.
Application No.: 10/185,823
Filed: June 27, 2002
Attorney Docket No.: FIS920010281US1
For: APPARATUS FOR DETECTING CMP ENDPOINT IN ACIDIC SLURRIES

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed November 4, 2002 (certificate of mailing date October 29, 2002).

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. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on June 27, 2002 without an executed oath or declaration. Accordingly, on August 29, 2002, a "Notice to File Missing Parts of Nonprovisional Application" (Notice) was mailed, requiring an executed oath or declaration and a surcharge for its late filing. In addition, the Notice required petitioners to submit a substitute specification in compliance with 37 CFR 1.52 and replacement drawings in compliance with 37 CFR 1.82 and 1.121.

In response, on November 4, 2002 (certificate of mailing date October 29, 2002), the surcharge, a substitute specification, replacement drawings, and the instant petition were filed. A declaration of facts of Tiffany Townsend, an attorney handling this application, accompanied the petition. Ms. Townsend explains that technical managers for non-signing joint inventors Scott Cline and James Gilhooly tried on numerous occasion by phone and mail to reach them, but they did not respond. In addition, Messrs. Cline and Gilhooly did not respond to any telephonic or e-mail communications from another joint inventor.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

This petition lacks items (1) and (4) above.

As to item (1), applicants have failed to establish that the non-signing inventors have refused to sign the declaration or cannot be reached. A successful Rule 47 petition requires either (1) a clear refusal to join, whether expressly or by conduct, or (2) a showing of diligence in trying to find an unavailable inventor. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events.

The Office requires that the non-signing inventors be provided with a complete copy of the application as filed. Attorney Townsend's declaration indicates that the non-signing inventors did not respond to a number of telephone messages and mailings left by individuals other than herself . This fact alone establishes neither diligence in trying to find the missing inventors, nor the inventors' refusal by conduct to join in the filing of the application. A complete copy of the application, including specification, claims and drawings, and the declaration should be mailed to the inventors' respective last known address with the request that each sign the declaration.

Any written refusal to sign the declaration should be included as documentary evidence in any reconsideration petition. If there is an oral refusal, the facts surrounding the refusal should be included in a declaration by a party with first hand knowledge of the refusal. If it is concluded by the 37 CFR 1.47 applicant that a non-signing inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration.

If petitioners are alleging that the non-signing inventors cannot be located, other attempts to reach them are required. The following is a list of evidentiary sources that are commonly relied upon to prove inability to locate an inventor: searches of Internet databases; inquiries of local telephone directories; telegrams; and documented inquiries of last known employers. Every listed type of search need not be done. However, a diligent effort to find the inventors must be made.

Documentary evidence that supports a finding that the non-signing inventor could not be found or reached should be made part of any affidavits or declarations that fully describe the exact facts which are relied on to establish that a diligent effort was made to locate the non-signing inventor. Printed computer search records would suffice.

The affidavit or declaration of facts must be signed, where at all possible, by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay will not normally be accepted. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

As to item (4), a clear statement of the inventor's last known address is missing and is required. If they are the same as those cited in the declaration, please make that assertion in any reconsideration petition.

Pursuant to petitioners' authorization, deposit account no. 09-0458 will be charged the $130.00 fee associated with filing a Rule 47 petition.

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

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

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 should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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Technology Center 2100

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Paper No. 7

James A. D. White
Perkins Coie LLP
P.O. Box 1247
Seattle, WA 98111-1247

In re Application of: Gorman et al.
Application No. 10/185,871
Filed: June 27, 2002
For: IDENTIFYING SECURITY THREATS

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. §1.102(D) AND M.P.E.P. §708.02(XI)

This is a decision on the petition to make special filed October 18, 2002, under 37 C.F.R. §102(d) in view of M.P.E.P. §708.02(XI): Inventions For Countering Terrorism.

The petition is DISMISSED.

M.P.E.P. §708.02 (XI), which sets out the prerequisites for a grantable petition for Inventions For Countering Terrorism under 37 C.F.R. § 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 kidnapping..." The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.
>
> Applicants who desire that an application relating to inventions for countering terrorism be made special should file a petition with the petition fee under 37 CFR 1.17(i) requesting the Patent and Trademark Office to make the application special. The petition for special status should be accompanied by a statement explaining how the invention contributes to countering terrorism.

Petitioner's submission fails to meet the criteria set out with respect to countering terrorism in M.P.E.P. §708.02(XI). Although it can be said that a computer implemented method for analyzing information related to security threats would limit acts of terrorism, the method disclosed in the petition does not teach directly preventing potential terrorist acts by identifying terrorists. The disclosed invention only indicates that the individual may or may not be a security threat. The method does not identify an individual as a terrorist or one who will perform a terrorist act when it

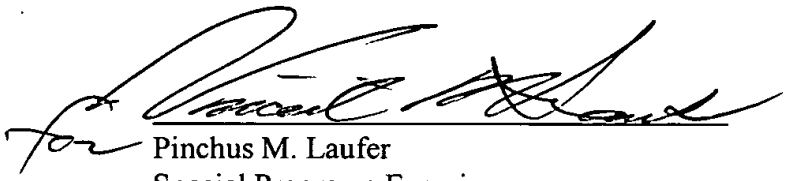
is determined that an individual matches a certain type of information. As a result, no advancement in the technology of countering terrorism has been persuasively shown in the petition.

Accordingly, the petition is **DISMISSED**. The application file is being forwarded to Central Files to await examination in its proper turn based on its effective filing date.

Any request for reconsideration must be filed within TWO MONTHS of the mailing date of this decision.

Applicants can file a request for reconsideration with specific recitations that directly prevent acts of terrorism (i.e. Specification page 3, claims 2, etc.)

It is suggested that Applicant review M.P.E.P. §708.02 regarding other grounds available for filing a petition to make special. In particular, note M.P.E.P. §708.02(VIII): Accelerated Examination, which does not place limitations on the subject matter of the application.



Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
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(703) 306-4160

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MAR 27 2003

Technology Center 2100

Paper No. 10

James A. D. White
Perkins Coie LLP
P.O. Box 1247
Seattle, WA 98111-1247

In re Application of: Gorman et al.
Application No. 10/185,871
Filed: June 27, 2002
For: IDENTIFYING SECURITY THREATS

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the Request for re-consideration for petition to make special, filed October 18, 2002, under 37 C.F.R. §102(d) and M.P.E.P. §708.02(XI): Inventions For Countering Terrorism, to make the above-identified application special.

The Petition is **GRANTED**.

M.P.E.P. §708.02 (XI), which sets out the prerequisites for a grantable petition for Inventions For Countering Terrorism under 37 C.F.R. § 102(d), states in relevant part:

International terrorism as defined in 18 U.S.C. 2331 includes "activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to
be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping..." The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.

Applicants who desire that an application relating to inventions for countering terrorism be made special should file a petition with the petition fee under 37 CFR 1.17(i) requesting the Patent and Trademark Office to make the application special. The petition for special status should be accompanied by a statement explaining how the invention contributes to countering terrorism.

Petitioner's submission meets the criteria set out above with respect to countering terrorism as in M.P.E.P. § 708.02(XI),. Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for expedited examination. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

Vincent A. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and
Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of :
Goodbody et al. :
Application No. 10/185,893 : ON APPLICATION FOR
Filed: June 27, 2002 : PATENT TERM ADJUSTMENT
Atty Docket No.021756-019100US:

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION filed December 30, 2008. Applicants submit that the patent term adjustment should be eight hundred thirty-five (835) days, not six hundred twenty-one (621) days. Referring to Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008), applicants request this correction on the basis that the Office will take in excess of three years to issue this patent. In addition, this correction is in consideration of applicants disclosing that an additional period of reduction of 11 days should have been entered for a total period of reduction for applicant delay of 228 days.

To the extent that the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b). (This is true even in this instance where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.703(b) calculation until the

actual date of issuance of the patent has been determined. Accordingly, it is still too soon to make a determination as to the correctness of any period of adjustment that will or will not be entered pursuant to § 1.703(b)).

Applicant is given TWO (2) MONTHS from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

It is acknowledged that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —
>
> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is noted that a Request for Continued Examination (RCE) was first filed in this application on July 25, 2006.

To the extent that applicants otherwise request correction of the initial determination of patent term adjustment, the request for review 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 ten (610) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On November 14, 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 621 days. Applicants point out that the notice to file corrected application papers was mailed on August 2, 2002, and the response was received by the Patent Office on November 13, 2002, 11 days after three months after the mailing of the Action.

Applicants are correct. A period of reduction of 11 days should have been entered pursuant to 37 C.F.R. §1.704(b) for applicants taking in excess of three months to file a response to the notice to file corrected application papers.

In view thereof, the initial determination of the patent term adjustment at the time of the mailing of the notice of allowance is six hundred ten (610) days (838 - 228).

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 and is not consumed by the filing of a request for continued examination).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

PTA Calculations for Application: 10/185893			
Application Filing Date:	06/27/2002	PTO Delay (PTO):	838
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	217
Post-Issue Petitions:	0	Total PTA (days):	610
PTO Delay Adjustment:	-11		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
68	04/06/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		11	
60	11/14/2008	MAIL NOTICE OF ALLOWANCE			
59	11/12/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
58	11/12/2008	DOCUMENT VERIFICATION			
57	11/12/2008	ISSUE REVISION COMPLETED			
56	10/23/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
55	11/10/2008	EXAMINER'S AMENDMENT COMMUNICATION			
54	11/10/2008	NOTICE OF ALLOWABILITY			
47	08/21/2008	DATE FORWARDED TO EXAMINER			
46	07/23/2008	RESPONSE AFTER NON-FINAL ACTION		125	43
45	07/09/2008	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
44	04/22/2008	DATE FORWARDED TO EXAMINER			
43.1	03/20/2008	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
43	03/20/2008	RESPONSE AFTER NON-FINAL ACTION		91	41
42	03/20/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
41	09/20/2007	MAIL NON-FINAL REJECTION			
40	09/17/2007	NON-FINAL REJECTION			
39	08/02/2007	PG-PUB ISSUE NOTIFICATION			
38	07/11/2007	DATE FORWARDED TO EXAMINER			
37	07/06/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
36	07/11/2007	DATE FORWARDED TO EXAMINER			
35	07/06/2007	REQUEST FOR CONTINUED EXAMINATION			

		(RCE)			
34	07/11/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
33	07/06/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
32	04/17/2007	RESCIND NONPUBLICATION REQUEST FOR PRE GRANT PUBLICATION			
31	04/06/2007	MAIL FINAL REJECTION (PTOL - 326)			
30	04/02/2007	FINAL REJECTION			
29	01/24/2007	DATE FORWARDED TO EXAMINER			
28	12/26/2006	RESPONSE AFTER NON-FINAL ACTION			
27	09/26/2006	MAIL NON-FINAL REJECTION			
26	09/21/2006	NON-FINAL REJECTION			
25	07/28/2006	DATE FORWARDED TO EXAMINER			
24	07/25/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
23	07/28/2006	DATE FORWARDED TO EXAMINER			
22	07/25/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)		1	19
21	07/28/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
20	07/25/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
19	04/24/2006	MAIL FINAL REJECTION (PTOL - 326)			
18	04/19/2006	FINAL REJECTION			
17	03/06/2006	DATE FORWARDED TO EXAMINER			
16	02/27/2006	RESPONSE AFTER NON-FINAL ACTION			
15	12/12/2005	MAIL NON-FINAL REJECTION	838		-1
14	12/08/2005	NON-FINAL REJECTION			
13	12/02/2005	CORRESPONDENCE ADDRESS CHANGE			
12	12/02/2005	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
11	11/14/2005	CASE DOCKETED TO EXAMINER IN GAU			
10	04/28/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
9	02/11/2003	CASE DOCKETED TO EXAMINER IN GAU			
8	12/09/2002	APPLICATION DISPATCHED FROM OIPE			
7	12/03/2002	APPLICATION IS NOW COMPLETE			
5	11/13/2002	ADDITIONAL APPLICATION FILING FEES			
4	11/13/2002	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			

3	08/02/2002	CORRECTED PAPER			
2	07/17/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	06/27/2002	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Back to OASIS | Home page

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JUN 14 2010

OFFICE OF PETITIONS

In re Patent No. 7,539,634	:	DECISION ON REQUEST
Goodbody et al.	:	FOR
Issue Date: May 26, 2009	:	RECONSIDERATION OF
Application No. 10/185,893	:	PATENT TERM ADJUSTMENT
Filed: June 27, 2002	:	and
Atty Docket No.021756-019100US	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on May 27, 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 eight hundred thirty-five (835) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**. The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by eight hundred sixty (860) days.

The B delay is 392 days, not 393 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 period of B delay, the over three year period began on June 28, 2005, and ended on July 24, 2006, *the day before* the RCE was filed, and is 392 (not 393) days. *See* 35 U.S.C. § 154(b)(1)(B)(i). Patentee is correct that the period of overlap is 168 days. Accordingly, the patent term adjustment is increased by 224 (392 - 168) to 860 days. (It is noted that patentee's calculation appears to be based on the patent term adjustment at the time of the mailing of the notice of allowance and does not take into

account the 26 days of Office delay entered at issuance pursuant to 37 CFR 1.702(a)(4)(for failure to issue a patent not later than four months after the date on which the issue fee was paid under 35 U.S.C. 151 and all outstanding requirements were satisfied).

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by nine hundred sixty **(860)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,539,634 B2

DATED : **May 26, 2009** **DRAFT**

INVENTOR(S) : Goodbody 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 636 days

Delete the phrase "by 636 days" and insert – by 860 days--

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MAIL Paper No. 5

JAN 2 3 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

RatnerPrestia
P.O. Box 980
Valley Forge PA 19482

In re Application of :
Shuji SAIKI, et al. :
Application No. 10/185,909 : DECISION ON PETITION
Filed: June 28, 2002 : TO MAKE SPECIAL
For: SPEAKER SYSTEM, MOBILE TERMINAL DEVICE, AND ELECTRONIC DEVICE :

This is a decision on the petition filed December 29, 2003 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAIL

FEB 27 2006

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

RatnerPrestia
P.O. Box 980
Valley Forge PA 19482

In re Application of:
SAIKI, SHUJI, et al.
Application Serial No.: 10/185,909
Filed: June 28, 2002
For: **SPEAKER SYSTEM, MOBILE TERMINAL DEVICE, AND ELECTRONIC DEVICE**

DECISION
ON PETITION

This is a decision on the petition, filed on January 23, 2006 under 37 C.F.R. §1.181, requesting that the examiner acknowledge and consider the art cited in an IDS filed on October 14, 2004.

The prior art listed as part of the IDS was previous considered by the examiner and is of record in the file, see attached initialed 1449s.

Accordingly, the petition is **DISMISSED**.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

Enclosures: Initialed 1449s (2)

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

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OFFICE OF PETITIONS

In re Application of :
Cornelis Oene Cirkel et al. : ON PETITION
Application No. 10/185,928 :
Filed: June 28, 2002 :
Attorney Docket No. PHNL 010452 :

This is a decision on the petition filed February 17, 2006, to revive the above-identified application under 37 CFR 1.137(b).

The petition is **GRANTED**.

A Final Office Action was mailed November 18, 2004. A proposed response to the Final Office Action was filed May 9, 2005 but it did not constitute a proper reply in compliance with 37 CFR 1.113. Accordingly, a Notice of Abandonment was mailed July 14, 2005.

Comes now petitioners with the instant petition to revive, a Notice of Appeal and an Appeal Brief.

The Notice of Appeal filed February 17, 2006, has been entered and made of record. Although petitioners have submitted the Appeal Brief, the agency is obligated to inform petitioners that they have a two (2)-month period for filing the Appeal Brief, accompanied by the fee required by law, and that the two (2)-month period runs from the date of this decision.

The matter is being referred to Technology Center 2829 for a review of the Notice of Appeal and the Appeal Brief.

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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CORNING INCORPORATED
SP-TI-3-1
CORNING NY 14831

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APR 18 2005

OFFICE OF PETITIONS

In re Application of	:	
Lionel Beunet et al	:	
Application No. 10/185,941	:	ON PETITION
Filed: June 27, 2002	:	
Attorney Docket No. SP01-202	:	

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed July 28, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on October 29, 2004.

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

This matter is being referred to Patent Publication.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 4

Kyocera Wireless Corporation
Attn: Patent Department
PO Box 928289
San Diego, CA 92192-8289

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OCT 06 2003

OFFICE OF PETITIONS

In re Application of :
Susan Sachdeva et al. :
Application No. 10/185,953 : ON PETITION
Filed: June 27, 2002 :
Attorney Docket No. UTL 00057 :

This is a decision on the petition under 37 CFR 1.137(b) filed September 15, 2003, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

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 Corrected Application Papers (Notice) mailed August 7, 2002, which set a period for reply of Two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on October 8, 2002.

Telephone inquiries regarding 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
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

Deborah A. Neville
SUGHRUE MION, PLLC
1010 El Camino Real, Ste. 300
Menlo Park, CA 94025

MAILED

SEP 2 6 2003

Technology Center 2100

In re Application of:
Bruno Dutertre
Application No. 10/185,961
Filed: June 28, 2002
For: SYSTEM FOR DYNAMIC, SCALABLE SECURE SUB-GROUPING IN MOBILE AD-HOC NETWORKS

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed June 17, 2003.

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

The request is signed by Frank L. Bernstein alone and does not contain a clear indication that Mr. Bernstein is authorized to sign on behalf of the other attorneys of record and is signing on behalf of the other attorneys of record. Furthermore, there is no indication that Applicant has been notified of the request for withdrawal.

Accordingly, the request is **DENIED**.

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

to ensure receipt of all communications from the Office.

For James R. Matthews

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAILED Paper No. 11

FEB 0 6 2004

Technology Center 2100

Frank L. Bernstein
SUGHRUE MION, PLLC
1010 El Camino Real
Menlo Park, CA 94025-4345

In re Application of:
Bruno Dutertre
Application No.: 10/185,961
Filed: June 28, 2002
For: SYSTEM FOR DYNAMIC, SCALABLE SECURE SUB-GROUPING IN MOBILE AD-HOC NETWORKS

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 October 09, 2003.

A Power Of Attorney Under 37 CFR § 1. 36 was filed on October 21, 2003. The Power Of Attorney revoked all prior Powers Of Attorney and appointed Deborah Neville as the attorney(s) of record of the instant application. The Power Of Attorney of October 21, 2003 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by Deborah Neville.

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

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

for James R. Matthews

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

cc: Deborah Neville
Law office of Deborah Neville
4328 Canoas Drive
Austin, TX 78730

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 18

DATE : 07/09/2005

TO SPE OF : ART UNIT 3719

SUBJECT : Request for Certificate of Correction on Patent No.: 6765907

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

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Angela Green
Certificates of Correction Branch
Tel. No. 703-305-9380 ext. 123

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

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

Comments:

SPE 2613 Art Unit

PTO/SB/44 (04-04)
Approved for use through 04/30/2007. OMB 0651-0033
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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO : 6,765,907 B1

DATED : Jul 20, 2004

INVENTOR(S) : Xu et al

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

1) In Column 4 line 50, after network address storer, insert –204–.

2) In Column 4 line 52, after network address storer, replace "202" woth –204–.

3) In column 6 line 47, after 12. The program storage device of claim, replace "1" with –11–.

MAILING ADDRESS OF SENDER: Thelen Reid & Priest
PO Box 640640
San Jose, CA 95164-0640

PATENT NO. 6,765,907

No. of additional copies ⇨ 1

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the 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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Paper No. 8

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

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FEB 1 0 2004

OFFICE OF PETITIONS

In re Application of :
Lee McDonald :
Application No. 10/186,015 :
Filed: July 1, 2002 :
Attorney Docket No. 20010434.CIP :

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

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

The petition is **GRANTED**.

The instant nonprovisional application is the subject of an application filed in an eighteen month publication country on October 10, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of May 20, 2004 accompanies this decision on petition.

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

This application is being forwarded to Technology Center Art Unit 3743 for consideration of the amendment filed January 12, 2004.

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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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	:	
Bae et al.	:	
Application No. 10/186,035	:	ON PETITION
Filed: June 28, 2002	:	
Attorney Docket No. DE-1382	:	

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

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE); (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 1600 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition, along with processing of the Petition under 37 CFR 1.48(a).

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/186,082	06/28/2002	Bret M. Berry	4002-2987/PC743.00	3560

7590 06/27/2005

Woodard, Emhardt, Naughton, Moriarty and McNett
Bank One Center/Tower
Suite 3700
111 Monument Circle
Indianapolis, IN 46204-5137

EXAMINER	
ROBERT, EDUARDO C	

ART UNIT	PAPER NUMBER
3732	

DATE MAILED: 06/27/2005

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAY 19 2005

Woodard, Emhardt, Moriarty, McNett & Henry, LLP
Bank One Center/Tower
Suite 3700
111 Monument Circle
Indianapolis, IN 46204-5137

In re Application of	:	DECISION ON PETITION
Bret M. Berry	:	TO WITHDRAW
Serial No. : 10/186,082	:	HOLDING OF
Filed : June 28, 2002	:	ABANDONMENT
For : Instruments and Techniques for Spinal Disc Space Preparation	:	

This is a decision on petitioner's request filed December 13, 2004 to review the holding of abandonment mailed November 23, 2004, for failure to respond to the Office action mailed March 8, 2004. The basis for the request is that applicant did not receive the communication mailed March 8, 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 December 13, 2004 includes all the above elements. In addition, an inspection of the file shows that the communication in question was returned undelivered. The request is therefore GRANTED and the holding of abandonment withdrawn. Upon the mailing of this decision, the application will be forwarded to the Legal Instruments Examiner for the re-mailing of the Office action of March 8, 2004.

Summary: Holding of Abandonment Withdrawn.

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

ak/05/13/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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JAMES M. STOVER
TERADATA CORPORATION
2835 MIAMI VILLAGE DRIVE
MIAMISBURG OH 45342

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AUG 27 2009

OFFICE OF PETITIONS

In re Application of
Alex Yung et al
Application No. 10/186,087
Filed: June 28, 2002
Attorney Docket No. 10512

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 26, 2009, 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 November 16, 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)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is .

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 $1,620.00; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2159 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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Forrest Gunnison
Gunnison, McKay & Hodgson, L.L.P.
Suite 220
1900 Garden Road
Monterey CA 93940

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OFFICE OF PETITIONS

In re Application of
Young
Application No. 10/186,102
Filed: June 27, 2002
Attorney Docket No. ADPT1061
FOR: METHOD AND STRUCTURE FOR HANDLING PACKETIZED SCSI PROTOCOL DATA OVERRUNS IN A MULTI-DATA CHANNEL HOST ADAPTER

: DECISION DISMISSING
: PETITION AS MOOT

This is a decision on the petition under 37 CFR 1.10(c), filed August 20, 2002, requesting that the above-identified application be accorded a filing date of June 27, 2002.

Petitioner received a Filing Receipt dated August 9, 2002 that cited a June 28, 2002 filing date for the application and filed the instant petition in response. The Office of Initial Patent Examination corrected the filing date to June 27, 2002. Petitioner was informed of the change in filing date via a Corrected Filing Receipt mailed September 4, 2002. A copy of the Corrected Filing Receipt is enclosed. All office records show this application's filing date as June 27, 2002.

Therefore, the petition is **dismissed as moot**. No petition fee has been or will be charged in connection with this matter.

The application is being forwarded to Technology Center G.A.U. 2152 for examination in due course.

Any inquiries directly related to this decision should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

enclosure: Corrected Filing Receipt, dated 09/04/02

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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DIW Sep-06

JOHN B. YATES III
GE ADVANCED MATERIALS
ONE PLASTICS AVENUE
PITTSFIELD MA 01201

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OFFICE OF PETITIONS

In re Patent No. 6,838,503 :
Issued: 4 January, 2005 :
Application No. 10/186,134 : ON PETITION
Filed: 28 June, 2002 :
Atty Dckt No. 124205-1 :

This is a decision on the petition filed on 9 February, 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 petition is **granted**.

Telephone inquires concerning this matter may be directed to the undersigned at 571.272.3231. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at 703.305.8309.

It is noted that petitioner submitted $400.00 with the present petition. However, only a processing fee of $130.00 and certificate of correction fee of $100.00 are due. The balance will be credited to counsel's deposit account.

The address in the petition is different than the correspondence address. A courtesy copy of this decision will be mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record.

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

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

cc: CANTOR COLBURN LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OFFICE OF PETITIONS

In re Application of :
Shawn David Erickson et al :
Application No. 10/186,161 : DECISION GRANTING PETITION
Filed: June 28, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 1073.036A :

This is a decision on the petition under 37 CFR 1.137(b), filed June 16, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before June 10, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the $700 issue fee and $300 publication fee; (2) the $750 petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

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

This matter is being referred to Publishing Division.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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MICHELLE A. ZARINELLI
C/O WEST CORPORATION
11808 MIRACLE HILLS DRIVE/ MAIL STOP: W11-LEGAL
OMAHA, NE 68154

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DEC 11 2008

OFFICE OF PETITIONS

In re Application of :
FRISBIE, et al. :
Application No. 10/186,162 :
Filed: June 27, 2002 :
Attorney Docket No. **PAT-015A** :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 15, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of January 11, 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)(II)(A)(2). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is April 12, 2008.

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

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

This application is being referred to Technology Center AU 2191 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Brian W. Brown
Petitions Examiner
Office of Petitions

PATENT
Our Docket: P-UX 5306

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:
Michael G. Lorenz

Serial No.: 10/186,176 [032]

Filed: June 26, 2002

For: METHOD FOR NUCLEIC ACID EXTRACTION AND NUCLEIC ACID PURIFICATION

Examiner: Not Yet Known
Group Art Unit: 1645

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patent Washington, D.C. 20231, ATTN: BOX MISSING PARTS, on October 8, 2002.

By _____
Calvin A. Fan, Reg. No. 38,444

October 8, 2002
Date of Signature

COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231
Attention: BOX MISSING PARTS

MISSING PARTS TRANSMITTAL

Dear Sir:

In response to the Notice to File Missing Parts mailed August 9, 2002, enclosed are:

_X_ 1. A copy of the Notice to File Missing Parts;

_X_ 2. An executed Declaration for Patent Application;

_X_ 3. A Recordation Form Cover Sheet and an executed Assignment;

___ 4. An executed Small Entity Statement;

_X_ 5. An executed Power of Attorney for Patent Application by Assignee;

_X_ 6. An executed Statement Under CFR 3.73(b) with copy of executed Assignment.

_X_ 7. Correction of Filing Receipt with attached Exhibit A

The filing fee has been calculated as shown below:

	NUMBER FILED		NUMBER EXTRA		RATE			FEE	
					SMALL ENTITY	OTHER ENTITY		SMALL ENTITY	OTHER ENTITY
TOTAL CLAIMS	35- 20	=	15	x	$9	$18	=	$	$270
INDEPENDENT CLAIMS	2- 3	=	0	x	$42	$84	=	$	$0
MULTIPLE DEPENDENT CLAIM PRESENTED: ___YES _X_ NO					$140	$280	=	$	$0
					BASIC FEE			$370	$740
					TOTAL FEE				1010

_X_ 7. A check in the amount of $1,115.00 to cover the filing fee of $1,010.00, the surcharge fee of $65.00, and $40.00 for recording an Assignment for the application is enclosed.

_X_ The Commissioner is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 03-0370. A duplicate copy of this sheet is enclosed.

_X_ Any additional filing fees required under 37 C.F.R. 1.16.

_X_ Any patent application processing fees under 37 C.F.R. 1.17.

_X_ The Commissioner is hereby authorized to charge to Deposit Account No. 03-0370 any fees under 37 CFR 1.17 which may be required under 37 CFR 1.136(a)(3) for an extension of time in any concurrent or future reply requiring a petition for extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted

Date: October 8, 2002

By: _____
Calvin A. Fan
Reg. No. 38,444

CAMPBELL & FLORES LLP
4370 La Jolla Village Drive
7th Floor
San Diego, California 92122
Telephone: (858) 535-9001
Facsimile: (858) 535-8949
USPTO CUSTOMER NO. 23601

OIPE JC54
OCT 15 2002
PATENT & TRADEMARK OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/186,166	06/26/2002	Michael G. Lorenz	P-UK 5306

CONFIRMATION NO. 7032

FORMALITIES LETTER

OC000000008605685

23601
CAMPBELL & FLORES LLP
4370 LA JOLLA VILLAGE DRIVE
7TH FLOOR
SAN DIEGO, CA 92122

10/17/2002 HMARZ11 00000026 030370 10186166
02 FC:1001 740.00 OP
03 FC:1202 270.00 OP
04 FC:1051 65.00 CH 65.00 OP

Date Mailed: 08/09/2002

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

10/17/2002 HMARZ11 00000026 030370 10186166
~~04 FC:1021~~ ~~40.00 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 **$270** 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 **$1140** for a Large Entity

AUG 1 3 2002

- $740 Statutory basic filing fee.
- $130 Late oath or declaration Surcharge.
- Total additional claim fee(s) for this application is $270
  - $270 for 15 total claims over 20.

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

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 1 - ATTORNEY/APPLICANT COPY

A copy of the Notice to File Missing Parts

Attorney Docket No.: P-UX 5306
Serial No.: 10/186,166 [7032]

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231, ATTN: BOX MISSING PARTS on October 8,2002.

By _____
Calvin A. Fan, Reg. No. 38,444

Oct. 8, 2002
Date of Signature

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

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FEB 07 2003

OFFICE OF PETITIONS

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

In re Application of
Rissler, et al.
Application No. 10/186,170
Filed: June 28, 2002
Atty. Dkt. No.: 7784-000432
Title: E-BEAM TREATMENT SYSTEM FOR MACHINING COOLANTS AND LUBRICANTS

: DECISION GRANTING
: STATUS UNDER 37 CFR
: 1.47(a)

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

The petition is **GRANTED**.

Petitioner has shown that inventor Tzvi Avnery 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
www.uspto.gov

COPY MAILED

FEB 07 2003

OFFICE OF PETITIONS

TZVI AVNERY
74 GEORGE ROAD
WINCHESTER, MA 01890

In re Application of
Rissler, et al.
Application No. 10/186,170
Filed: June 28, 2002
Atty. Dkt. No.: 7784-000432
Title: E-BEAM TREATMENT SYSTEM FOR MACHINING COOLANTS AND LUBRICANTS

LETTER

Dear Sir:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0310. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Dec-07

OSI PHARMACEUTICALS, INC.
41 PINELAWN ROAD
MELVILLE NY 11747

COPY MAILED

DEC 14 2007

OFFICE OF PETITIONS

In re Application of	:	
Demuth et al.	:	DECISION ON PETITION TO
Application Number: 10/186177	:	WITHDRAW HOLDING OF
Filing Date: 06/27/2002	:	ABANDONMENT
Attorney Docket Number:	:	
20488/43	:	

This is a decision on reference to the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT," filed on November 5, 2007.

The petition is **GRANTED**.

The application was held abandoned for failure to timely respond to the non-final Office action mailed on April 4, 2007, which set a three (3) month shortened statutory period for reply. Notice of Abandonment was mailed on October 17, 2007.

Petitioner asserts that a proper and timely reply to the non-final Office action was filed.

A review of the official file reveals that on October 9, 2007 (certificate of mailing date October 4, 2007), an amendment and a petition and fee for a three (3)-month extension of time were filed.

As such, the papers filed on October 9, 2007, constituted a complete and timely response to the non-final Office action mailed on April 4, 2007.

Therefore, the showing of record is that a response was timely filed, and there is no abandonment in fact.

The holding of abandonment is withdrawn, and the Notice of Abandonment is vacated.

The Office apologizes for any inconvenience to petitioner.

The application will be referred to Technology Center Art Unit 1654 for further processing.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NETWORK APPLIANCE/BLAKELY
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

COPY MAILED

MAR 3 1 2008

OFFICE OF PETITIONS

In re Application of :
Steven LUMETTA et al. :
Application No. 10/186,178 : DECISION ON PETITION
Filed: June 27, 2002 :
Attorney Docket No. **SAND-007AUS** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 10, 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 timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed January 17, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 18, 2007.

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

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 January 17, 2007, 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)(III)(A)(2). Since the amendment submitted does not prima facie place the application in condition 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 PTO-303.

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 Tredelle Jackson at (571) 272-2783.

David Bucci
Petitions Examiner
Office of Petitions

Please see attached PTOL-303

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/186,178	LUMETTA ET AL.	
	Examiner	Art Unit	
	Shi K. Li	2613	

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

THE REPLY FILED 21 March 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 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on ___. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): ___.
6. ☐ Newly proposed or amended claim(s) ___would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: ___.
   Claim(s) objected to: ___.
   Claim(s) rejected: *1-31*.
   Claim(s) withdrawn from consideration: ___.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☒ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). 8/25/2006
13. ☐ Other: ___.

Continuation of 3. NOTE: The amendment changes the scope of the claims and would require further consideration and/or search.

Continuation of 11. does NOT place the application in condition for allowance because: The applicant's arguments are directed to the proposed amended claims and are moot in view of the non-entry of the amendment. Furthermore, Johansson teaches in FIG. 2C that the switch in node 1' is off under normal condition. That is, under normal condition, node 4' sends data to node 1' via fiber 6 in the counterclockwise direction. If a fiber cut occurs between node 3' and node 4', the switch of node 1' is turned on and the switch of node 4' is turned off. Node 4' sends data via fiber 5 toward node 1'.

SHI K. LI
PRIMARY 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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NETWORK APPLIANCE/BLAKELY
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

COPY MAILED

JUN 0 3 2008

OFFICE OF PETITIONS

In re Application of
Steven LUMETTA
Application No. 10/186,178
Filed: June 27, 2002
Attorney Docket No. **SAND-007AUS**

DECISION ON PETITION

This is a decision on a renewed petition to revive the above-identified application under the 37 CFR 1.137(b), filed on May 12, 2008, and the petition for expedited consideration thereof under 37 CFR 1.182, filed on May 15, 2008.

The petition for expedited consideration is **GRANTED**.

The petition under 37 CFR 1.137(b) 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 January 17, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). The proposed reply filed March 21, 2007 did not constitute a proper reply under 37 CFR 1.113(a) to the final Office action. No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is April 18, 2007.

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

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

This application is being referred to Technology Center AU 2613 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.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

Do not enter. Sk 2/22/2008

OIPE IAP85 MAR 2 1 2007 PATENT & TRADEMARK OFFICE

DML 3/31/08

Attorney Docket No.: 5693P099

Patent

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application for:

Steven Lumetta et al.

Serial No.: 10/186,178

Filing Date: June 27, 2002

For: FAULT TOLERANT OPTICAL DATA COMMUNICATION NETWORK

Examiner: Lee, David J

Group Art Unit: 2613

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on

March 19, 2007
(Date of Deposit)

Alma Goldchain
(Printed name)

Alma Goldchain 3/19/07
(Signature) (Date)

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

RESPONSE AND AMENDEMNT TO FINAL OFFICE ACTION

Dear Sir:

In response to the Final Office Action mailed on 1/17/2007, please enter the following amendments and consider the following remarks:

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/186,178	**Applicant(s)** LUMETTA ET AL.	
	Examiner Shi K. Li	**Art Unit** 2613	

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

THE REPLY FILED 21 March 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 *3* months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on ___. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): ___.
6. ☐ Newly proposed or amended claim(s) ___would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: ___.
   Claim(s) objected to: ___.
   Claim(s) rejected: *1-31*.
   Claim(s) withdrawn from consideration: ___.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☒ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). 8/25/2006
13. ☐ Other: ___.

/Shi K. Li/
Primary Examiner, Art Unit 2613

Continuation of 3. NOTE: The amendment changes the scope of the claims and would require further consideration and/or search.

Continuation of 11. does NOT place the application in condition for allowance because: The applicant's arguments are directed to the proposed amended claims and are moot in view of the non-entry of the amendment. Furthermore, Johansson teaches in FIG. 2C that the switch in node 1' is off under normal condition. That is, under normal condition, node 4' sends data to node 1' via fiber 6 in the counterclockwise direction. If a fiber cut occurs between node 3' and node 4', the switch of node 1' is turned on and the switch of node 4' is turned off. Node 4' sends data via fiber 5 toward node 1'.

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Perkins Coie LLP
P.O. Box 1208
Seattle, WA 98111-1208

Mail Date: 04/20/2010

Applicant	: Steven Lumetta	: DECISION ON REQUEST FOR
Patent Number	: 7603033	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/186,178	: 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 **1408** 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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LANDO & ANASTASI, LLP
ONE MAIN STREET, SUITE 1100
CAMBRIDGE MA 02142

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NOV 2 4 2009

OFFICE OF PETITIONS

In re Application of	:	
Craig H. LABOVITZ et al.	:	
Application No. 10/186,194	:	DECISION ON PETITION
Filed: June 27, 2002	:	
Attorney Docket No. A0781-7003US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 02, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed March 03, 2009. A one (1) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. The appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on May 04, 2009. *See* MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the Notice of Appeal filed March 03, 2009 is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,110.00 extension of time fee submitted with the petition on October 02, 2009 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 the undersigned at (571) 272-4231.

This application is being referred to Technology Center AU 2457 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.

Michelle R. Eason
Paralegal Specialist
Office of Petition

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GORDON & REES LLP
101 WEST BROADWAY
SUITE 1600
SAN DIEGO CA 92101

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OFFICE OF PETITIONS

In re Application of	:	
Bernhardt Goettker	:	
Application No. 11/186,195	:	ON PETITION
Filed: July 19, 2005	:	
Attorney Docket No. UFP 1031829	:	

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

The petition is **DISMISSED**.

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 s to timely pay the issue and publication fees on or before December 11, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed September 11, 2007, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on December 12, 2007. The Notice of Abandonment was mailed January 9, 2008.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). 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 issue fee has not been received. Even though authorization to charge the issue and publication fee was given on the PTOL-85, it could not be charged because Rudolf O. Siegesmund is not listed as an authorized user of the deposit account given.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

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

By Mail:
Mail Stop PETITION
Commissioner for Patents
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 Terri Williams at (571) 272-2991.

Chris Bottorff
Petitions Examiner
Office of Petitions

cc: **Rudolf O. Siegesmund**
2100 Ross Avenue, Suite 2800
Dallas, TX 75201

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BEYER WEAVER & THOMAS LLP
P.O. Box 70250
Oakland, CA 94612-0250

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APR 15 2005

Technology Center 2100

In re Application of:
Weiqing HUANG, et al.
Application No. 10/186,203
Filed: June 26, 2002
For: METHOD AND SYSTEM FOR IMPLEMENTING CHANGES TO SECURITY POLICIES IN A DISTRIBUTED SECURITY SYSTEM

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1.36 and 0.40(c) filed January 12, 2005.

A Revocation And Substitution Of Power Of Attorney Under 37 CFR § 1.36 was filed on February 10, 2005. The Power Of Attorney revoked all prior Powers Of Attorney and appointed Carr & Ferrell, LLP as the attorney(s) of record of the instant application. The Power of Attorney of February 10, 2005 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by Carr & Ferrell LLP.

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

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

For Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
571-272-3613

cc: John S. Ferrell
Carr & Ferrell LLP
2200 Geng Road
Palo Alto, CA 94303

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OFFICE OF PETITIONS

CARR & FERRELL, LLP
2200 GENG ROAD
PALO ALTO, CA 94303

In re Application of :
Weiqing Huang et al. :
Application No. 10/186,203 : DECISION ON PETITION
Filed: June 26, 2002 : TO WITHDRAW
Attorney Docket No. PA2918US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 20, 2006.

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

A review of the file record indicates that the power of attorney to the firm of Carr & Ferrell, LLP, has been revoked by the assignee, Guardian Data Storage, LLC, of the patent application on February 13, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Sterne, Kessler, Goldstein & Fox, PLLC
1100 New York Avenue, NW
Washington, DC 20005

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CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO CA 94303

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JAN 16 2007

OFFICE OF PETITIONS

In re Application of

SUPRAMANIAM, et al.
Application No. 10/186,204
Filed: June 26, 2002
Attorney Docket No. SS-026

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 November 20, 2006.

The request is **APPROVED**.

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

The request was signed by Susan Yee on behalf of all attorneys of record who are associated. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed August 28, 2006 that requires a reply from the applicant.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **SENTHILVASAN SUPRAMANIAM**
113 SMARTY AVENUE, #215
SUNNYVALE, CA 94087-4248

cc: **RYAN MORRISON**
INVENTION LAW GROUP
1756-11TH AVENUE SE, SUITE 110
BELLEVUE, WA 98004

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/186,204	06/26/2002	Senthilvasan Supramaniam	SS-026

CONFIRMATION NO. 3844

OC000000021999241

22830
CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

Date Mailed: 01/16/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/20/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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ARRIS GROUP C/O STOEL RIVES LLP
201 S. MAIN ST., STE 1100
SALT LAKE CITY UT 84111

MAILED

JUN 07 2010

OFFICE OF PETITIONS

In re Application of :
ISTVAN, Anthony F. et al. :
Application No. 10/186,209 : DECISION ON PETITION
Filed: June 27, 2002 : TO WITHDRAW
Attorney Docket No. **50588/186** : 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 12, 2010.

The request is **NOT APPROVED**.

The Office has revised its change in procedure for request to withdraw from representation applies to requests filed on or after May 12, 2008.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because a change of address was not provided.

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

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

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

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ARRIS GROUP C/O STOEL RIVES LLP
201 S. MAIN ST., STE 1100
SALT LAKE CITY UT 84111

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JUN 15 2010

OFFICE OF PETITIONS

In re Application of :
BILLMAIER, James A. et al. :
Application No. 10/186,210 : DECISION ON PETITION
Filed: June 27, 2002 : TO WITHDRAW
Attorney Docket No. **42041/187** : 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 12, 2010.

The request is **NOT APPROVED**.

The Office has revised its change in procedure for request to withdraw from representation applies to requests filed on or after May 12, 2008.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because a change of address was not provided.

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

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

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

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& SCHIFFMILLER, P.C.
489 FIFTH AVENUE
NEW YORK NY 10017

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OFFICE OF PETITIONS

In Application of
Stein
Application No.: 10/186,217
Filed: June 26, 2002
Attorney Docket No.: 0851/1I118-US3 //
Stein 217/ESO
For: PROCESS FOR MAKING A SHOE OUTSOLE

ON PETITION

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

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

The Office contended that the above-identified application became abandoned for failure to submit a reply to the final Office action, mailed October 4, 2005, which set an extendable three month period for reply. No request for extension of time or reply being received, the Office contended that this application became abandoned on January 5, 2006. A Notice of Abandonment was mailed on April 12, 2006.

Petitioner alleges that the October 4, 2005 final Office action was not received.

The showing required to establish non-receipt of an Office communication must include:

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

[1] See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

Petitioner has proven non-receipt. Practitioner has attested to a fruitless search of the file jacket, docket records for a period of time covering October 1, 2005 to January 1, 2006, and a mail log for a period of time covering October 2005 to January 2006. Practitioner has referenced the docket record where the non-received Office communication would have been entered had it been received.

Therefore, the petition under 37 CFR 1.181 is granted, the holding of abandonment is withdrawn, and the Notice of Abandonment dated April 12, 2006 is **vacated**. No petition fee has been or will be charged in connection with this matter.

After the mailing of this decision, the application will be returned to Technology Center AU 1732 for the re-mailing of the October 4, 2005 final Office action with a new period for response.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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TECHNOLOGY CENTER 2100

Fish & Richardson P.C.
500 Arguello Street, Suite 500
Redwood City, CA 94063

In re Application of:
Changming LIU, et al.
Application No. 10/186,239
Filed: June 26, 2002
For: HIGH AVAILABILITY NETWORK SECURITY SYSTEMS

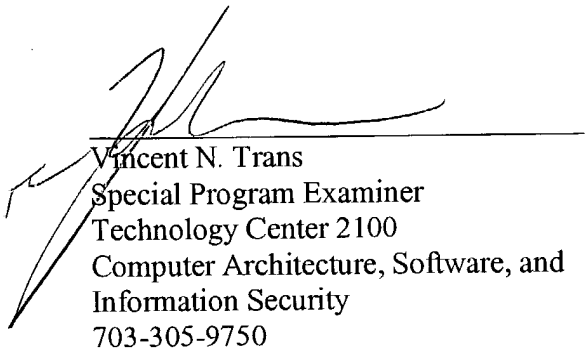
DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed July 9, 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.**

There is no indication that Applicant has been notified of the request for withdrawal. Accordingly, the request is **DENIED.**

All future communications from the Office will continue to be directed to the above-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

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WORKMAN NYDEGGER & SEELEY
1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY UT 84111

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MAY 0 6 2005

OFFICE OF PETITIONS

In re Application of :
Richard J. Linder et al :
Application No. 10/186,255 : ON PETITION
Filed: June 28, 2002 :
Attorney Docket No. 15389.9.4 :

This is a decision on the petition, filed May 4, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

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

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

The examiner of Technology Center AU 3731 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 20061004

DATE : March 22, 2006

TO SPE OF : ART UNIT 2863

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/186257 Patent No.: 6,983,219

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: In the claims

"Claim 14, line 1" should be -- column 14, line 1 --.

"Claim 14, line 17" should be -- column 14, line 17 --.

"Claim 20, line 26" should be -- column 15, line 26 --.

"Claim 22, line 8" should be -- column 16, line 8 --.

Clm 10/4/06

SPE John Barlow Supervisory Patent Examiner Technology Center 2800

2863 Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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MINNEAPOLIS MN 55403-2420

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JUN 17 2008

OFFICE OF PETITIONS

In re Patent No. 6878153 :
Issue Date: 04/12/2005 :
Application Number: 10/186275 : NOTICE
Filing or 371(c) Date: 06/28/2002 :
Attorney Docket Number: 1001.1934102 :

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

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:4

DATE : April 10, 2007

TO SPE OF : ART UNIT 2831

SUBJECT : Request for Certificate of Correction on Patent No.: 6,816,354

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:

4/15/07

SPE: Dean Reichard **Art Unit** 2831

DO NOT SEND TO WAREHOUSE

10186279

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4/25/04 Paper No.: _____

TO SPE OF : ART UNIT 2831 - NGUYEN, TU

SUBJECT : Request for Certificate of Correction on Patent No.: 6816354

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.

Should the References Cited be added?

Thank You For Your Assistance

R Johnson
Certificates of Correction Branch

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

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

Comments:

_____

_____

_____

_____

_____

_____ SPE _____ Art Unit

Reset Form

PTO/SB/44 (04-04)
Approved for use through 04/30/2007. OMB 0851-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,816,354 B2

DATED : November 9, 2004

INVENTOR(S) : Nguyen

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

Please insert the following references cited by the Examiner during prosecution of the application:

References Cited

U.S. PATENT DOCUMENTS

6,058,004	05/2000	Duva et al. 361/301.4
5,933,318	08/1999	Tomono et al. 361/323
5,172,304	12/1992	Ozawa et al. 361/763
4,312,026	01/1982	Iwaya et al. 361/321.1

MAILING ADDRESS OF SENDER: Richard M. Moose, Esquire
DORITY & MANNING, P.A.
P.O. Box 1449
Greenville, SC 29602-1449

PATENT NO. 6,816,354 B2

No. of additional copies
⇨ 10

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.

MAR 16 2005

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Richard J. Linder et al.	Confirmation No.: 3121
Application No.:		10/186,292	Patent No.: 6,997,939 B2
Filed	:	June 28, 2002	Issued: February 14, 2006
Title	:	METHODS, SYSTEMS, AND DEVICES FOR DEPLOYING AN EMBOLIC PROTECTION FILTER	
Docket No.	:	1001.1936102	
Customer No.	:	28075	

NOTIFICATION OF ERROR IN PAYMENT OF FEE(S) AS A SMALL ENTITY (37 C.F.R. §1.28(c))

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

CERTIFICATE FOR ELECTRONIC TRANSMISSION: The undersigned hereby certifies that this paper or papers, as described herein, are being electronically transmitted to the U.S. Patent and Trademark Office on this 28th day of November, 2007.

By _____
JoAnn Lindman

Dear Sir:

On September 5, 2003, a small entity assertion was erroneously filed in this patent. It has now been established that such status as a small entity was established in error as follows: before the payment of the fee(s) listed below, a change occurred whereby small entity status could no longer be claimed for applicant and, the Office was not notified.

10/01/2008 CKHLOK 00000021 500413 10186292
01 FC:1461 1414.00 DA

Fee(s) Erroneously Paid As a Small Entity	Fee Actually Paid As a Small Entity	Deficiency Owed
Fee for excess claims (over 20) paid on September 5, 2003 14 dependent claims and 5 independent claims	$336.00	$1,414.00

Authorization is hereby made to charge the amount of the total deficiency, $1,414.00 to Deposit Account No. 50-0413. Charge any additional fees required by this paper or credit any overpayment in the manner authorized above.

Respectfully submitted,

RICHARD J. LINDER ET AL.

By their Attorney,

Date: Nov. 28, 2007

Glenn M. Seager, Reg. No. 36,926
CROMPTON, SEAGER & TUFTE, LLC
1221 Nicollet Avenue, Suite 800
Minneapolis, Minnesota 55403-2420
Tel: (612) 677-9050

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OFFICE OF PETITIONS

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

In re Application of :
Chow, et. al. :
Application No. 10/186,295 :
Filed: June 28, 2002 :
Attorney Docket No. 3614/89 :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 17, 2006.

The request is **APPROVED**.

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

The request was signed by Vincent J. Gnoffo on behalf of all attorneys or agents of record.

Allan J. Sternstein, Kent E. Genin, and Vincent J. Gnoffo have been withdrawn as attorneys or agents of record

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is an outstanding Office action mailed April 18, 2006 that requires a reply from the applicant.

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

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee: Amelia Au

cc: Christopher P. Moreno
Vedder, Price, Kaufman & Kammholz, PC
222 North LaSalle Street
Chicago, IL 60601

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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

In re Application of
Chow, et. al.
Application No. 10/186,295
Filed: June 28, 2002
Attorney Docket No. 3614/89

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

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The request is **APPROVED**.

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The request was signed by Vincent J. Gnoffo on behalf of all attorneys or agents of record.

Allan J. Sternstein, Kent E. Genin, and Vincent J. Gnoffo have been withdrawn as attorneys or agents of record

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is an outstanding Office action mailed April 18, 2006 that requires a reply from the applicant.

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

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee: Amelia Au

cc: Christopher P. Moreno
Vedder, Price, Kaufman & Kammholz, PC
222 North LaSalle Street
Chicago, IL 60601

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

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NOV 1 8 2002

OFFICE OF PETITIONS

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

In re Application of
Nudler, et al.
Application No. 10/186,301
Filed: July 1, 2002
Atty. Dkt. No.: NUDLER1B
For: NITROSATION-INDUCIBLE INHIBITORS BIOLOGICAL MACROMOLECULES

: DECISION GRANTING
: PETITION UNDER 37 CFR
: 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed November 1, 2002.

The petition is **GRANTED**.

Petitioner has shown that inventor Evgeny Nudler 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
www.uspto.gov

VIA AIRMAIL

EVGENY NUDLER
ANDREI NEDOSPASOV
117312
VAVILOV STR. 43 #28
MOSCOW, RUSSIA

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NOV 1 8 2002

OFFICE OF PETITIONS

In re Application of
Nudler, et al.
Application No. 10/186,301
Filed: July 1, 2002
Atty. Dkt. No.: NUDLER1B
For: NITROSATION-INDUCIBLE
INHIBITORS BIOLOGICAL
MACROMOLECULES

LETTER

Dear Sir:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0310. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

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

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

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

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MAR 11 2009

OFFICE OF PETITIONS

In re Application of : CORRECTED DECISION
Nudler, et al. : GRANTING STATUS
Application No. 10/186,301 : UNDER 37 CFR 1.47(a)
Filed: July 1, 2002 :
Attorney Docket No. NUDLER1B :

This decision corrects the decision mailed November 18, 2002 in response to the petition under 37 CFR 1.47(a), filed November 1, 2002.

The petition is **GRANTED.**

Petitioner has shown that the non-signing inventor AUDREI NEDOSPASOV has refused to execute the oath or declaration after having been presented with the application papers.

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(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 referred to the Office of Patent Application Processing for pre-examination processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

VIA AIRMAIL

AUDREI NEDOSPASOV

117312 VAVILOV STR. 43 #28
MOSCOW, RUSSIA

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MAR 11 2009

OFFICE OF PETITIONS

In re Application of
Nudler, et al.
Application No. 10/186,301
Filed: July 1, 2002
Attorney Docket No. NUDLER1B

Dear Sir:

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 the undersigned at (571) 272-3205. 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 (571) 272-3150 or 1 (800) 972-6382 (outside the Washington, DC area).

Alesia M. Brown
Petitions Attorney
Office of Petitions

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

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

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MAR 2 6 2007

OFFICE OF PETITIONS

In re Application of :
Michael M. Garofalo et al :
Application No. 10/186,303 : DECISION GRANTING PETITION
Filed: June 27, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. SAND-019PUS :

This is a decision on the petition, filed March 23, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 21, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2616 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Mar10\186303.wpd

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WORKMAN NYDEGGER
(F/K/A WORKMAN NYDEGGER & SEELEY)
60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY UT 84111

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MAY 0 6 2005

OFFICE OF PETITIONS

In re Application of :
Richard J. Linder et al :
Application No. 10/186,304 : ON PETITION
Filed: June 28, 2002 :
Attorney Docket No. 15389.9.3 :

This is a decision on the petition, filed May 4, 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 12, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3731 will consider the request for continued examination under 37 CFR 1.114.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAY - 5 2005

In re Application of	:	
Eleftherios T. Papoutsakis	:	NOTICE OF WITHDRAWAL
Serial No. 10/186,335	:	FROM ISSUE
Filed: June 27, 2002	:	UNDER 37 CFR 1.313(b)
For: INCREASED CELL RESISTANCE TO	:	
TO TOXIC ORGANIC SUBSTANCES	:	

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

The application is being withdrawn to permit reopening of prosecution. The reasons therefore will be communicated to you by the examiner.

PTO records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a deposit account.

The application is being forwarded to the examiner for action.

Bruce M. Kisliuk, Director
Technology Center 1600

REINHART BOERNER VAN DEUREN S.C.
ATTN: LINDA GABRIEL, DOCKET COORDINATOR
1000 NORTH WATER STREET
SUITE 2100
MILWAUKEE WI 53202

cc: Allowed Files, PK3-910
Drafting Branch, PK3-910

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/186335

Paper No.: ____

DATE : 1/31/06

TO SPE OF : ART UNIT 1653

SUBJECT : Request for Certificate of Correction on Patent No.: 6960465 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:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Virginia Tolbert

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 113

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

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

Comments:

Col. 8, line 60 should read "86-91".
Col. 10, line 48 is correct as published; see attached first page of publication.

SPE

1653
Art Unit

APPLIED AND ENVIRONMENTAL MICROBIOLOGY, Sept. 1999, p. 3793–3799 Vol. 65, No. 9
0099-2240/99/$04.00+0
Copyright © 1999, American Society for Microbiology. All Rights Reserved.

Development and Characterization of a Gene Expression Reporter System for *Clostridium acetobutylicum* ATCC 824

SESHU B. TUMMALA,[1] NEIL E. WELKER,[2] AND ELEFTHERIOS T. PAPOUTSAKIS[1]*

Department of Chemical Engineering[1] and Department of Biochemistry, Molecular Biology, and Cell Biology,[2] Northwestern University, Evanston, Illinois 60208

Received 19 January 1999/Accepted 9 June 1999

A gene expression reporter system (pHT3) for *Clostridium acetobutylicum* ATCC 824 was developed by using the *lacZ* gene from *Thermoanaerobacterium thermosulfurogenes* EM1 as the reporter gene. In order to test the reporter system, promoters of three key metabolic pathway genes, *ptb* (coding for phosphotransbutyrylase), *thl* (coding for thiolase), and *adc* (coding for acetoacetate decarboxylase), were cloned upstream of the reporter gene in pHT3 in order to construct vectors pHT4, pHT5, and pHTA, respectively. Detection of β-galactosidase activity in time course studies performed with strains ATCC 824(pHT4), ATCC 824(pHT5), and ATCC 824(pHTA) demonstrated that the reporter gene produced a functional β-galactosidase in *C. acetobutylicum*. In addition, time course studies revealed differences in the β-galactosidase specific activity profiles of strains ATCC 824(pHT4), ATCC 824(pHT5), and ATCC 824(pHTA), suggesting that the reporter system developed in this study is able to effectively distinguish between different promoters. The stability of the β-galactosidase produced by the reporter gene was also examined with strains ATCC 824(pHT4) and ATCC 824(pHT5) by using chloramphenicol treatment to inhibit protein synthesis. The data indicated that the β-galactosidase produced by the *lacZ* gene from *T. thermosulfurogenes* EM1 was stable in the exponential phase of growth. In pH-controlled fermentations of ATCC 824(pHT4), the kinetics of β-galactosidase formation from the *ptb* promoter and phosphotransbutyrylase formation from its own autologous promoter were found to be similar.

Clostridium acetobutylicum ATCC 824 is a gram-positive, spore-forming, obligate anaerobe that is able to ferment various sugars to form the commercial solvents acetone and butanol. The acetone-butanol fermentation ceased to be economical in the late 1950s due to the development of more efficient petrochemical processes, but recent developments in the molecular genetics of solventogenic clostridia have revived interest in this fermentation process. In the last few years, there have been several advances in the metabolic engineering of *C. acetobutylicum* aimed at generating superproducing strains. In 1993, Mermelstein and Papoutsakis developed an electroporation protocol for introducing plasmid DNA into *C. acetobutylicum* ATCC 824 (11). This allowed carbon and energy fluxes to be redirected by overexpression of solventogenic genes carried on a plasmid (12). Another major advance involved the use of nonreplicative integrational plasmids to knock out specific clostridial genes by homologous recombination (6). More recently, Desai and Papoutsakis showed that antisense RNA can be used in *C. acetobutylicum* to downregulate production of specific enzymes (4). Antisense RNA strategies can be used for repression of specific metabolic enzymes in order to redirect carbon fluxes toward desirable pathways.

Nevertheless, several necessary genetic tools are still missing, and this fact hinders progress in this field. One of the missing critical tools is a gene expression reporter system. A reporter system would allow workers to study expression of both autologous and heterologous promoters in solventogenic clostridia and to understand the regulation of these promoters. An understanding of promoter strength and regulation could lead to more effective clostridial expression vectors. Such vectors eventually could be used to augment expression of solventogenic pathway genes in order to enhance solvent production. Moreover, an understanding of promoter strength and regulation could be coupled with antisense RNA strategies and knockout mutations to develop more complex metabolic engineering strategies for increasing solvent production.

Since no effective gene expression reporter systems for *C. acetobutylicum* have been available, no clostridial promoters have been characterized yet. Since *Escherichia coli* genes are poorly expressed in *C. acetobutylicum*, traditional *E. coli* reporter genes, such as *lacZ*, cannot be used in *C. acetobutylicum*. The green fluorescent protein gene has been used as a reporter gene in many bacterial systems. However, the green fluorescent protein gene does not appear to be a good candidate for use as a reporter gene for *C. acetobutylicum* because of its requirement for oxygen, which is necessary for the development of the chromophore responsible for fluorescence (8). A chloramphenicol acetyltransferase gene, *catP*, from *Clostridium perfringens* has also been considered for potential use as a reporter gene for *C. acetobutylicum*. Although adequate as a reporter gene for *C. perfringens* (2, 10), *catP* may not be well-suited for use as a reporter gene for *C. acetobutylicum*, because *C. acetobutylicum* contains high levels of nonspecific coenzyme A transferases which might interfere with the chloramphenicol acetyltransferase assay.

Burchhardt and Bahl (3) cloned and analyzed the *lacZ* gene from *Clostridium thermosulfurogenes* EM1 (later classified as *Thermoanaerobacterium thermosulfurogenes* EM1 [5]). These authors also proposed that this gene would be an excellent candidate as a reporter gene for *C. acetobutylicum* (3). Since *C. acetobutylicum* ATCC 824 lacks endogenous β-galactosidase activity (21), a reporter system with this *lacZ* gene as a reporter gene would be more sensitive to promoter activity. The β-galactosidase assay has also been well-documented, is relatively easy to perform, and is sensitive to low levels of activity.

In this study, we developed a gene expression reporter system (pHT3) in which the *lacZ* gene from *T. thermosulfurogenes*

* Corresponding author. Mailing address: Department of Chemical Engineering, Northwestern University, 2145 Sheridan Rd., Evanston, IL 60208. Phone: (847) 491-7455. Fax: (847) 491-3728. E-mail: e-paps@nwu.edu.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mail Date: 04/26/2010

Applicant	: Edward Shaw-Lee Suen	: DECISION ON REQUEST FOR
Patent Number	: 7634397	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/186,345	: 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 **834** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MYRIAD GENETICS INC
INTELLECTUAL PROPERTY DEPARTMENT
320 WAKARA WAY
SALT LAKE CITY, UT 84108

COPY MAILED

JAN 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Kenton Zavitz :
Application No. 10/186,371 : ON PETITION
Filed: June 28, 2002 :
Attorney Docket No. 5001.01 :

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

The petition is **GRANTED.**

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 March 25, 2004, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). The reply submitted on August 3, 2004 did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed September 22, 2004. Therefore, as no Notice of Appeal (and appeal fee), Request for Continued Examination (RCE) or a continuing application was timely filed. Extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on August 26, 2004.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center 1614 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Amendment.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

NOTICE RE: CERTIFICATES OF CORRECTION

DATE : 3/3/05 **Paper No.:** _____

TO : **Supervisor, Art Unit** 1724

SUBJECT : Certificate of Correction Request in Patent No.: 6,764,599

A response to the following question is requested with respect to the accompanying request for a certificate of correction.

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

PLEASE COMPLETE THIS FORM AND
RETURN WITH FILE, WITHIN 7 DAYS,
TO CERTIFICATES OF CORRECTION BRANCH - PK 3-915/922
PALM LOCATION 7580 - TEL. N0. 305-8309

THANK YOU FOR YOUR ASSISTANCE!

Note your decision by placing a check mark in the appropriate box below, indicating whether all changes requested in the Request for Certificate of Correction should be applied. Please specify which changes should not be applied and indicate the reason(s) for denial, in the "Comments" section below.

RHS 04/11/05 ☒ **YES** ☐ **NO**

☐ Comments: _____

DUANE SMITH
SUPERVISORY PATENT EXAMINER
Supervisor 4-11-05

1724
Art Unit

Certificate of Mailing
I hereby certify that this correspondence is being deposited on the 7th of October, 2004 with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, PO Box 1450, Alexandria, Virginia 22313-1450.

Typed or Printed name of person signing this certificate:

Marianne Crimaldi

Signature: Marianne Crimaldi

Customer Number
24024

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE PATENT OF	:	Randall W. Nichols, et al.
FOR	:	**MEMBRANE GAS DEHYDRATING APPARATUS FOR GAS CONTROLLED AND POWERED SYSTEMS**
PATENT NO.	:	6,764,529 B2
ISSUED	:	July 20, 2004
ATTORNEY DOCKET	:	28679/04405 (01-027 US)

OK to Enter this Certificate of Correction.
PAS 05/06/2005

Commissioner For Patents
P. O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR CERTIFICATE OF CORRECTION

Herewith is a Certificate of Correction for the above identified U.S. Letters Patent.

The errors noted on the Certificate were discovered during proofreading of the issued Letters Patent. Please correct the above identified patent to reflect these changes.

Accordingly, the errors are a mistake of the Printing Section and, therefore, no fee is required to effect this correction. However, should the Patent and Trademark Office believe otherwise, please charge any fees that may be incurred to Deposit Account No. 03-0172. A duplicate of this sheet is enclosed.

Respectfully submitted,

Brian E. Kondas

Brian E. Kondas, Esq.
Reg. No. 40,685
Customer No. 24024
216-622-8308

20 OCT 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,764,529 B2

DATED : July 20, 2004

INVENTOR(S) : Randall W. Nichols, et al.

It is certified that errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Abstract, line 16, please insert --the-- between from and second
Abstract, line 16, please insert --membrane-- between second and member
Column 11 (66), please delete "act" and insert --set--
Column 13 (22), please delete "the supply" and insert --said first--
Column 13 (22), please insert --stream-- between gas and has
Column 13 (25), please insert --second-- between said and gas
Column 13 (28-29), please delete "wherein the first housing further comprises" and insert --comprising--
Column 13 (29), please delete "the supply" and insert --said first--
Column 13 (30), please insert --stream-- before around
Column 13 (31), please delete "the supply" and insert --said first--
Column 13 (32), please insert --stream-- before bypassing
Column 13 (42), please delete "Interstitial" and insert --interstitial--
Column 14 (41), please delete "infer" and insert --after--
Column 15 (61), please delete "a" following more
Column 16 (37), please delete "tubas" and insert --tubes--
Column 16 (40), please delete "space" and insert --spaces--
Column 17 (26), please delete "steam" and insert --stream--
Column 17 (30), please delete "steam" and insert --stream--
Column 17 (32), please delete "140 about" and insert --about 140--
Column 17 (34), please delete "strum" and insert --stream--
Column 18 (8), please delete "rewires" and insert --receives--
Column 18 (12), please delete "members" and insert --member--

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OCT 12 2004
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Cy C

PTO/SB/21 (02-04)
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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	10/186,408
Filing Date	July 1, 2002
First Named Inventor	Randall W. Nichols
Art Unit	1724
Examiner Name	R. Spitzer
Total Number of Pages in This Submission: 3	Attorney Docket Number: 28679/04405 (01-027 US)

ENCLOSURES *(Check all that apply)*

- ☐ Fee Transmittal Form
  - ☐ Fee Attached
- ☐ Amendment/Reply
  - ☐ After Final
  - ☐ Affidavits/declaration(s)
- ☐ Extension of Time Request
- ☐ Express Abandonment Request
- ☐ Information Disclosure Statement
- ☐ Certified Copy of Priority Document(s)
- ☐ Response to Missing Parts/ Incomplete Application
  - ☐ Response to Missing Parts under 37 CFR 1.52 or 1.53
- ☐ 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 Technology Center (TC)
- ☐ Appeal Communication to Board of Appeals and Interferences
- ☐ Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
- ☐ Proprietary Information
- ☐ Status Letter
- ☑ Other Enclosure(s) (please Identify below):

SEE REMARKS

Remarks

- Request for Certificate of Correction (1 pg)
- Certificate of Correction (1 pg)
- Return Postcard

Certificate
OCT 19 2004
of Correction

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	24024
Signature	Brian P. Kondas
Date	October 7, 2004

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Typed or printed name	Marianne Crimaldi		
Signature	Marianne Crimaldi	Date	October 7, 2004

This collection of information is required by 37 CFR 1.5. 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 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: 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.

20 OCT 2004

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

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OCT 2 2 2003

OFFICE OF PETITIONS

In re Application of :
Dana F. Segler Jr. et al :
Application No. 10/186,412 : ON PETITION
Filed: July 1, 2002 :
Attorney Docket No. TI-31722

This is a decision on the petition under 37 CFR 1.182, filed October 14, 2003 to correct the spelling of the first named inventor from Dana J. Segler Jr. to Dana **F.** Segler Jr.

The petition is granted.

After this decision is mailed, deposit account No. 20-0668 will be charged the fee for the petition under 37 CFR 1.182 ($130).

A copy of the corrected filing receipt is enclosed.

Telephone inquires concerning this matter may be directed to Wan Laymon at (703) 306-5685.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: corrected filing receipt.

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ALEXANDRIA, VA 22313-1450
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Paper No. None

B. Noel Kivlin
Meyertons, Hood, Kivlin, Kowert & Goetzel P. C.
P O Box 398
Austin TX 78767-0398

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OFFICE OF PETITIONS

In re Application of	:	
Daniel B. Kyler et al.	:	
Application No. 10/186,419	:	
Patent No. RE39201	:	DECISION ON PETITION
Filed: July 2, 2002	:	UNDER 37 C.F.R. § 1.378(C)
Issue Date: July 18, 2006	:	
Attorney Docket Number:	:	
3794-001-27 REISSUE	:	
Title: PAGEABLE FILTER	:	
DRIVER FOR PROSPECTIVE	:	
IMPLEMENTATION OF DISK SPACE	:	
QUOTAS		

This is a decision on the petition filed on June 15, 2006, under 37 C.F.R. §1.378(c)[1], to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

---

1 A grantable petition pursuant to 37 C.F.R §1.378(c) must be accompanied by:
(1) The maintenance fee as set forth in 37 C.F.R. §§1.362(e) and 1.20;
(2) The surcharge for accepting a maintenance fee after expiration of a patent for non-timely payment of a maintenance fee, as set forth in 37 C.F.R. § 1.20;
(3) A statement that the delay was unintentional from a proper party in interest, and;
(4) The petition must be filed within 24 months of the date of expiration.

The present patent is a reissue of patent number 6,092,163, which issued on July 18, 2000.

Pursuant to MPEP §1415.01, the filing of a reissue application does not alter the schedule of payments of maintenance fees on the original patent. Consequently, the grace period for paying the 3½ year maintenance fee provided in 37 C.F.R. §1.362(e) expired at midnight on July 18, 2004, with no payment received. Accordingly, the patent expired on July 18, 2004, at midnight.

The present petition under 37 C.F.R. §1.378(c) is **GRANTED**.

The petition was timely filed within twenty-four months after the expiration of the six-month grace period. As required, petitioner submitted with the petition the required maintenance fee, the surcharge for accepting an unintentionally delayed maintenance fee after expiration, and a statement that the delay in payment of the maintenance fee was unintentional. Accordingly, the maintenance fee in this case is hereby accepted and the above-identified patent is hereby reinstated as of the mail date of this decision.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. Inquiries pertaining to the submission of maintenance fees should be directed to the Maintenance Fee branch at 571-272-6500.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related

to this application unless Change of Correspondence Address, Patent Form (PTO/SB/123) is submitted for the above-identified application. For petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/123), may be found at http://www.uspto.gov/web/forms/sb0123.pdf.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

cc: Noel Kivlin
MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL (AMD)
P.O. BOX 398
AUSTIN, TX 78767-0398

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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT

Application Number	10/186,430
Filing Date	July 1, 2002
First Named Inventor	Marvin Dimitrios Base, et al.
Art Unit	1615
Examiner Name	Sharon Lee Howard
Attorney Docket Number	1246-2

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

I hereby apply to withdraw as attorney or agent for the above identified patent application.

The reasons for this request are:

Applicant has failed to pay one or more bills for an unreasonable period of time.

I hereby certify this correspondence is being deposited with the United States Postal Service as first class mail, postpaid in an envelope addressed to Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450
on 12-8-04 Signature [signature]

APPROVED
[signature]
2/14/05
SPRS, TC 1600

CORRESPONDENCE ADDRESS

1. ☐ The correspondence address is NOT affected by this withdrawal.
2. ☒ Change the correspondence address and direct all future correspondence to:

☐ Customer Number [ ]

OR

☒ Firm or Individual Name	Marvin Dimitrios Base, M.D.				
Address	Internal Medicine				
Address	210-08 Northern Boulevard				
City	Bayside	State	NY	ZIP	11361
Country	USA				
Telephone		Fax	718-281-0566		

☒ This request is made on behalf of myself and
- ☒ all the attorneys/agents of record,
- ☐ the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- ☐ the attorneys/agents associated with Customer Number [ ]

This request is enclosed in triplicate (including any attachments).

Name	Edna I. Gergel, Ph.D.		
Signature	[signature]	Registration No.	50,819
Date	12/8/04		

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you are required to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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Paper No. 6

THADDIUS J. CARVIS
WARE, FRESSOLA, VAN DER SLUYS & ADOLPHSON LLP
755 MAIN STREET
P.O. BOX 224
MONROE, CT 06468

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APR 27 2004

OFFICE OF PETITIONS

In re Application of :
Bengt A. Carlson :
Application No. 10/186,456 : ON PETITION
Filed: June 28, 2002 :
Attorney Docket No. 835-039-009.1 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 8, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers mailed August 6, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. A one (1) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on November 7, 2002.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Thaddius J. Carvis
102 North King Street
Leesburg, VA 20176

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Paper No. 3

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JAN 13 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

KING & SPALDING
191 PEACHTREE STREET, N.E.
ATLANTA GA 30303-1763

In re Application of :
Alex Simmons :
Application No. 10/186,463 :
Filed: June 28, 2002 :
For: **METHOD AND SYSTEM FOR DISPLAYING AND LINKING INK OBJECTS WITH RECOGNIZED TEXT AND OBJECTS** :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on September 4, 2002.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

Josephine Young is removed from record.

All future communications from the Office will be directed to the address listed above until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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HAHN AND MOODLEY, LLP
P.O. BOX 52050
MINNEAPOLIS, MN 55402

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SEP 15 2009

OFFICE OF PETITIONS

In re Application of :
James D. HARLOW :
Application No. 10/186,526 : ON PETITION
Filed: June 28, 2002 :
Attorney Docket No. 000005.P001 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 24, 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 October 20, 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)(II)(A)(2). A two (2) month and a three (3) month extension of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is April 21, 2009.

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 $810; and (3) a proper statement of unintentional delay.

Examiner Douglas B. Blair confirms that the amendment filed on July 24, 2009, places the application in condition for allowance.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 2442 for processing of the response filed July 24, 2009, in the normal course of business.

Thurman K. Page
Petitions Examiner
Office of Petitions

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BROWN, RAYSMAN, MILLSTEIN, FELDER & STEINER LLP
900 THIRD AVENUE
NEW YORK NY 10022

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JUN 2 8 2004

OFFICE OF PETITIONS

In re Application of Ries et al. Application No. 10/186,541 Filed: July 1, 2002 For: SYSTEM AND METHOD FOR EDITING WEB PAGES IN A CLIENT/SERVER ARCHITECTURE Attorney Docket No.: 5491/4 Pub. No.: US 2003/0023632 A1 Pub. Date: January 30, 2003	DECISION GRANTING PETITION

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on February 20, 2003, which is also being treated as a petition to accord the application a filing date of July 1, 2002 with Figures 6, 8, 10 and 11 as part of the original disclosure.

The request and the petition are granted.

Applicants request that the application be republished because the patent application publication omits Figures 6, 8, 10 and 11as originally filed.

Upon review of the application file, it was noted that Figures 6, 8, 10 and 11 were also missing from the Patent Application Capture and Review (PACR) system. However, Figures 6, 8, 10 and 11 are part of the application in the Image File Wrapper (IFW) system.

In support of the request for corrected publication, applicants submitted a copy of their stamped post card receipt. Applicants' stamped post card receipt acknowledges receipt in the United States Patent and Trademark Office on July 1, 2002 of inter alia, 51 pages of specification, and 11 sheets of drawings. The evidence has been considered and it is persuasive that Figures 6, 8, 10 and 11 were filed on July 1, 2002.

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).

Eugenia Jones

Eugenia Jones
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 6

SUGHRUE MION, PLLC
1010 El Camino Real
Menlo Park, CA 94025-4345

MAILED

JUL 1 3 2003

Technology Center 2100

In re Application of: Bruno DUTERTRE)
Application No. 10/186,555)
Filed: June 28, 2002) **DECISION ON REQUEST FOR**
For: SECURE FAULT TOLERANT) **WITHDRAWAL AS ATTORNEY**
GROUPING WIRELESS)
NETWORKS AND NETWORK)
EMBEDDED SYSTEMS)

This is a decision on the Request To Withdraw from Representation filed June 17, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

for Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Deborah A. Neville, Esq.
4328 Canoas Drive
Austin, TX 78730

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 4
MAIL

DEC 23 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

SILICON VALLEY INTELLECTUAL PROPERTY GROUP
P.O. BOX 721120
SAN JOSE CA 95172-1120

In re Application of :
John E. Lindholm et al :
Application No. 10/186,557 :
Filed: June 28, 2002 :
For: **SINGLE SEMICONDUCTOR GRAPHICS PLATFORM WITH BLENDING AND FOG CAPABILITIES** :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on November 15, 2002.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

Kevin J. Zilka and Dominic M. Kotab are removed from record.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

cc: Bill Galliani
Cooley Godward LLP
Five Palo Alto Square
3000 El Camino Real
Palo Alto, CA 94306-2155

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 4

SILICON VALLEY INTELLECTUAL PROPERTY GROUP
P.O. BOX 721120
SAN JOSE CA 95172-1120

MAIL

DEC 23 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
John E. Lindholm et al :
Application No. 10/186,558 : DECISION ON REQUEST TO
Filed: June 28, 2002 : WITHDRAW AS ATTORNEY
For: **CLIPPING SYSTEM AND METHOD FOR A SINGLE GRAPHICS SEMICONDUCTOR PLATFORM** :

This is a decision on the request to withdraw as attorney/agent of record filed on November 15, 2002.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

Kevin J. Zilka and Dominic M. Kotab are removed from record.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

cc: Bill Galliani
Cooley Godward LLP
Five Palo Alto Square
3000 El Camino Real
Palo Alto, CA 94306-2155

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John A. Hamilton
Choate, Hall & Stewart
53 State Street
Exchange Place
Boston, MA 02109

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FEB 12 2007

OFFICE OF PETITIONS

In re Application of

Bruce Cichowlas

Application No. 10/186,570

Filed: July 1, 2002

Attorney Docket No. 2003428-0018

DECISION ON PETITION

This is a decision on petition under 37 CFR 1.137(b), filed December 13, 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 mailed May 31, 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 September 1, 2006. A Notice of Abandonment was mailed on October 25, 2006.

Form PTOL-85B, the issue fee payment and publication fee were received on October 19, 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

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.
10/186,579	07/01/2002	Chao Chieh Tsai	TS00-307B	7715

28112 7590 01/19/2005

GEORGE O. SAILE & ASSOCIATES
28 DAVIS AVENUE
POUGHKEEPSIE, NY 12603

EXAMINER	
BERRY, RENEE R	

ART UNIT	PAPER NUMBER
2818	

DATE MAILED: 01/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES PATENT AND TRADEMARK OFFICE

H·A

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010405

GEORGE O. SAILE & ASSOCIATES
28 DAVIS AVENUE
POUGHKEEPSIE NY 12603

JAN 11 2005

In re Application of:
Chao Chieh Tsai
Serial No.: 10/186,579
Filed: July 1, 2002
For: LOSSLESS CO-PLANAR WAVE GUIDE IN CMOS PROCESS

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed October 27, 2004, to withdraw the holding of abandonment of the above-identified application.

The petition is GRANTED.

A restriction requirement was mailed November 25, 2003, setting a one-month shortened statutory period for filing a reply. In the apparent absence of a response, a Notice of Abandonment was mailed on October 6, 2004.

Petitioner asserts that a reply was timely filed. In support of the assertion that a reply was timely filed, petitioner submitted the following papers as evidence of timely submission: 1) a copy of a response entitled RESPONSE TO RESTRICTION REQUIREMENT which bears at the bottom of the first page a Certificate of Mailing under 37 C.F.R. § 1.8(a) dated December 1, 2003, and 2) a statement in support of the petition under 37 C.F.R. § 1.8(b) signed by petitioner attesting to his personal knowledge that the reply was submitted to the PTO on December 1, 2003, and 3) a statement that a postcard receipt was not returned to petitioner.

The file record does not include the originally submitted papers.

The petition satisfies the conditions for accepting a reply filed via the certificate of mailing procedure under 37 C.F.R. § 1.8(a) but not received by the USPTO. Accordingly, the petition is granted.

The copy of the reply filed with the petition is hereby accepted since the Office has apparently lost the originally filed reply.

Any inquiry regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.

An Office action will be issued in due course.

James Dwyer, Group Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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RICHARD B. KLAR
145 WILLIS AVENUE
SUITE NO. 6
MINEOLA NY 11501

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OCT 2 8 2008

OFFICE OF PETITIONS

In re Application of :
Michael Paschall :
Application No. 10/186,582 : DECISION ON PETITION
Filed: July 1, 2002 :
Attorney Docket No. 92RK001 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 15, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before September 8, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed June 6, 2008. Accordingly, the date of abandonment of this application is September 9, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $720.00 and the publication fee of $300.00, (2) the petition fee of $770.00; and (3) a proper statement of unintentional delay.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Christopher Bottorff at (571) 272-6692.

This application is being referred to the Office of Data Management for processing into a patent.

Christopher Bottorff
Petitions Examiner
Office of Petitions

cc: RICHARD B. KLAR
LAW OFFICE OF RICHARD B. KLAR
145 WILLIS AVENUE
MINEOLA NY 11590

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)
6739003	2004-05-25	10/186,583	2002-07-01	FZZ0003-201-US

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Dennis A. Bennett/	Date (YYYY-MM-DD)	2010-05-03
Name	Dennis A. Bennett	Registration Number	34547

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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In re Patent No. 6739003
Issue Date: May 25,2004
Application No. 10186583
Filed: July 1,2002
Attorney Docket No. 2001-01-01

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 3,2010 ,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 3,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 4

KEATING & BENNETT LLP
SUITE 312
10400 EATON PLACE
FAIRFAX VA 22030

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OCT 0 3 2002

OFFICE OF PETITIONS

In re Application of :
Noboru Kato :
Application No. 10/186,609 : DECISION GRANTING PETITION
Filed: 2 July, 2002 :
Atty's Docket No. 36856.772 :

This is a decision on the petition filed on 20 August, 2002, requesting that the above-identified application, including Figure 5, be accorded a filing date of 2 July, 2002.

On 2 July, 2002, the application was filed.

On 31 July, 2002, Initial Patent Examination Division mailed a Notice of Omitted Items in a Nonprovisional Application stating that the application had been accorded a filing date of 2 July, 2002, but that Figure 5 described in the specification appeared to have been omitted.

In response, on 20 August, 2002, the present petition was filed, accompanied by a copy of one (1) sheet of drawings containing Figure 5. Petitioners assert that Figure 5 was filed with the other application papers on 2 July, 2002, but was subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied with the present petition. The postcard receipt shows an Office date stamp of 2 July, 2002, and identifies the application by attorney docket number, inventor's name, and invention title and acknowledges receipt, *inter alia*, of 10 sheets of drawings. Petitioners request that the application, including the drawing containing Figure 5, be accorded a filing date of 2 July, 2002.

A review of the record reveals that nine (9) sheets of drawings, containing Figures 1-4, and 6-17 are located among the application papers deposited on 2 July, 2002. However, the

evidence is convincing that the application papers deposited on 2 July, 2002, included 10 sheets of drawings and that the sheet of drawings containing Figure 5 was subsequently misplaced in the Office. Therefore, the application, including the one (1) sheet of drawing containing Figure 5 as described in the specification, is entitled to a filing date of 2 July, 2002.

The "Notice" mailed on 31 July, 2002, is vacated.

In view of the above, the petition is granted. The $130.00 petition fee will be refunded to counsel's deposit account, No. 50-1353.

The application will be processed using the application papers filed on 2 July, 2002, and the copy of Figure 5 of the drawings supplied on 20 August, 2002.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 2 July, 2002, using the application papers filed on 2 July, 2002, and the one (1) sheet of drawing containing Figure 5, supplied on 20 August, 2002, and for an indication on the bib-data sheet that 10 sheets of drawings were present on filing.

Telephone inquires should be directed to the undersigned at 703 308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6813692
Issue Date: November 2,2004
Application No. 10186646
Filed: July 1,2002
Attorney Docket No. GB 010104

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 27,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 27,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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#11

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FEB 19 2004

Office of the Director
Group 3600

ANCEL W. LEWIS, JR.
425 WEST MULBERRY
SUITE 101
FORT COLLINS, CO 80521

Paper No. 11

In re Application of
Timothy D. Horgan
Application No. 10/186,688
Filed: July 1, 2002
For: ICE FISHING NET ASSEMBLY

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicant's petition to withdrawal the holding of abandonment filed on December 29, 2003.

The petition is **GRANTED** in view of the following evidence of timely filing :

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____ which identifies the application by serial number and the type of Response that was filed on that date.

☒ Certificate of Mailing/Transmission signed on May 16, 2003. and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

cps/2/17/04

STEVEN W. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

#6
5-21-03

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MAY 2 1 2003

TECHNOLOGY CENTER 2100

Paper No. 6

John W. Ryan
WILMER CUTLER & PICKERING
2445 M Street, N.W.
Washington, DC 20037

In re Application of:
Jean-Francois Lavoire
Application No. 10/186,689
Filed: July 2, 2002
For: SYSTEM AND METHOD TO ENABLE A LEGACY BIOS SYSTEM TO BOOT FROM A DISK THAT INCLUDES EFIGPT PARTITIONS

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed March 25, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed March 25, 2003 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews
for Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: HEWLET-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

Mailed: 3/8/05

MEB
Paper Number __

In re application of
Elick, et al.
Serial No. 10/186,714
Patent No. 6,811,617
Filed: July 2, 2002
For: Method of Operating a Diswasher Pump and Filtration System

: DECISION ON
: PETITION
: 37CFR 1.324

This is a decision from the applicants' PETITION filed on February 11, 2005 to correct inventorship under 37 C.F.R. 1.324.

The petition is **granted**.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

Michael Barr
Supervisory Patent Examiner
Art Unit 1746
Technology Center 1700

Everett G. Diederiks, Jr.
DIEDERIKS & WHITELAW, PLC
12471 Dillingham Square, #301
Woodbridge, VA 22192

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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
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July 31, 2006

Patent No. : 6,967,646 B2
Ser. No. : 10/186724
Inventor(s) : Hosoi, et al.
Issued :November 22, 2005
Title : **DISPLAY CONTROLLER AND DISPLAY APPARATUS**

FILE COPY

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.

Granting of a petition under 37 CFR 1.183, requesting the requirements of 37 CFR 3.81 to be waived, is required to correct applicant's error in the Assignee, when the correct name of the assignee was not provided in accordance with either section 3.81(a) or (b) (either no name or an incorrect name was provided in item 3 of the Issue Fee Transmittal, when the assignment had been recorded or submitted for recordation at the time the issue fee was paid, or an incorrect name was provided in the petition required by section 3.81(b) when the assignment submitted for recording after the date of payment of the issue fee, but prior to issuance of the patent). 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 certificate of correction will issue for the remaining error noted in your request.

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) 273-8300
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, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

CBN/ee

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OFFICE OF PETITIONS

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

In re Patent No. 6,967,646 :
Issue Date: November 22, 2005 :
Application No. 10/186,724 : ON PETITION
Filed: July 2, 2002 :
Attorney Docket No. Q70844 :

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 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) 272-3204. 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.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : September 14, 2006 **Paper No.:** 20060914

TO SPE OF : ART UNIT 1636

SUBJECT : Request for Certificate of Correction on Patent No.: 6,926,910

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:

Certificate 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 appropriate box.

- ☑ Approved — All Changes apply.
- ☐ Approved in Part — Specify below which changes **do not** apply.
- ☐ Denied — State the reasons for denial below.

Comments:

Application No. 10/186,732 was issued as US Patent No. 6,926,910 on August 9, 2005. A clear error was made in the printing of said patent in that original claims 1-7, filed 7/2/2002, were mistakenly issued. This error was incurred through the fault of the Patent and Trademark Office, as the claims to be issued were those filed 1/24/2005 and amended by the Examiner's amendment mailed 3/31/2005. A copy of the corrected claims is attached hereto.

SPE: [signature] **Art Unit** 1636

Column 26

Line 11, claim 1 should read:

1. A hydrophobe biomolecular structure comprising a polymer and a polar biostructure, wherein the polymer is a hyaluronic acid, which is less than 400 kDa, wherein said hydrophobe biomolecular structure is a compacted hydrophobic structure with buried polar groups and a minimum size, wherein the polymer surrounds the biostructure, and wherein the hydrodynamic radius of the hydrophobe biomolecular structure is compacted to 1/10 of the structures original size.

Line 18, claim 2 should read:

2. The compacted hydrophobe biomolecular structure according to claim 1, wherein the collapsed structure is derived from elimination of: charge, water, ions and bindings, within the hydrodynamic volume of the structure.

Line 23, claim 3 should read:

3. The compacted hydrophobe biomolecular structure according to claim 1, wherein the polar biostructure is selected from the group consisting of a nucleotide, plasmid-DNA, DNA, RNA, a peptide, insulin, growth hormone, recombinant growth hormone, heparin, a heparin derivative, enzyme, and a monoclonal antibody.

Line 31, claim 4 should read:

4. The hydrophobe biomolecular structure according to claim 1, wherein the hydrodynamic radius of the hydrophobe biomolecular structure is less than 10 nm.

Line 35, claim 5 should read:

5. The hydrophobe biomolecular structure according claim 3, wherein the hyaluronic acid is between 60 – 360 kDa.

Line 38, claim 6 should read:

6. The hydrophobe biomolecular structure according to claim 3, wherein the polar biostructure is a plasmid-DNA, insulin, a growth hormone or a recombinant growth hormone.

Line 42, claim 7 should read:

7. A composition for parenteral administration, comprising the hydrophobe biomolecular structure according to claim 1 in combination with a carrier rendering said composition suitable for injection.

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Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
1300 I Street, N.W.
Washington DC 20005-3315

Applicant: Quinn et al.
Appl. No.: 10/186,737
Filing Date: July 2, 2002
Title: AQUEOUS COSMETIC COMPOSITION COMPRISING POROUS SILICA PARTICLES AND AT LEAST ONE HUMECTANT
Attorney Docket No.: 05725.0847-00
Pub. No.: US 2004/0005340 A1
Pub. Date: January 8, 2004

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), filed on March 4, 2004 for the above-identified application.

The request is granted.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice)

Shelby Littman, Esq

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No.

MAILED

JUN 0 1 2010

OFFICE OF PETITIONS

Casimir Jones, S.C.
2275 DEMING WAY, SUITE 310
MIDDLETON WI 53562

In re Application of	:	
Trau et al.	:	
Application No. 10/186,783	:	DECISION ON PETITION
Filed: July 1, 2002	:	PURSUANT TO
Attorney Docket No.: NMICS-30354/US-2/ORD	:	37 C.F.R. § 1.137(B)
Title: SYNTHESIS AND USE OF ORGANOSILICA PARTICLES	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed March 12, 2010, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee, the publication fee, and drawings in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed November 9, 2009, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting formal drawings,[1] issue fees,[2] or publication fees.[3] Accordingly, the above-identified application became abandoned on February 10, 2010. A Notice of Abandonment was mailed on March 2, 2010.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

1 See MPEP § 710.02(e)(III).
2 Id.
3 See 37 C.F.R. § 1.211(e).

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Applicant has submitted the issue, publication, and petition fees, along with corrected drawings, an amendment directing the entry of the same, and the proper statement of unintentional delay. As such, requirements one through three of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[4]

The Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Office of Patent Publication in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Office of Patent Publication where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[5] All other inquiries

4 See Rule 1.137(d).
5 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 2023
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Paper No. 7

MAILED

JUL 0 2 2003

Technology Center 2100

Frank L. Bernstein
SUGHRUE MION, PLLC
1010 El Camino Real
Menlo Park, CA 94025-4345

In re Application of:
Bruno Dutertre
Application No. 10/186,811
Filed: June 28, 2002
For: METHODS AND APPARATUS FOR SCALABLE DISTRIBUTED MANAGEMENT OF WIRELESS VIRTUAL PRIVATE NETWORKS

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed June 17, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed June 17, 2003 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

James R Matthews

707 Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Deborah A. Neville, Esq.
4328 Canoas Drive
Austin, TX 78730

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 5

Josephine Young
KING & SPALDING
191 Peachtree Street, N.E., 45th Floor
Atlanta, GA 30303

MAILED

JAN 13 2004

Technology Center 2100

In re Application of:
Alex J. Simmons et al.
Application No. 10/186,812
Filed: June 28, 2002
For: RESOLVING DOCUMENT OBJECT COLLISIONS

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed September 4, 2002.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed September 4, 2002 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the above-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

for Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

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Avaya
DEMONT & BREYER, LLC
100 COMMONS WAY, STE 250
HOLMDEL NJ 07733

MAILED

MAY 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Barbara Moo, et al.	:	
Application No. 10/186,818	:	DECISION DISMISSING PETITION
Filed: July 1, 2002	:	UNDER 37 CFR 1.313(a)
Attorney Docket No. 630-008US	:	

This is a decision on the petition under 37 CFR 1.313(a), filed May 22, 2009, requesting withdrawal of the above-identified application from issue.

The petition is **dismissed** as moot for the reasons stated below.

A review of the file record discloses that a Notice of Allowance and Fee(s) Due was mailed on February 26, 2009, with the issue fee being due on or before May 26, 2009. The petition states that the issue fee in this case has not been paid.

The filing of a petition under 37 CFR 1.313(a) is unnecessary, since the mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue. *Note* MPEP §§ 706.07(h)(IX) and 1308.

Inquiries concerning this decision may be directed to Terri Williams at (571) 272-291.

The matter is being referred to Technology Center AU 2614 for appropriate processing of the RCE filed May 22, 2009, and for consideration of the concurrently filed May 22, 2009.

Terri Williams
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

AVAYA INC.
MARGARET CARMICHAEL, DOCKETING SPECIALIST
1300 W. 120TH AVENUE
ROOM B1-F53
WESTMINSTER, CO 80234

Mail Date: 04/21/2010

Applicant	: Barbara Moo	: DECISION ON REQUEST FOR
Patent Number	: 7602928	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/186,818	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/01/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **764** 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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Paper No. 3

KING & SPALDING
191 Peachtree Street, N.E.
Atlanta, GA 30303-1763

MAILED

SEP 25 2002

Technology Center 2100

In re Application of: Alex J. Simmons)
Application No. 10/186820)
Filed: June 28, 2002) **DECISION ON REQUEST FOR**
For: METHOD AND SYSTEM FOR) **WITHDRAWAL AS ATTORNEY**
CATEGORIZING DATA OBJECTS)
WITH DESIGNATION TOOLS)

This is a decision on the Request To Withdraw from Representation filed September 4, 2002.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

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RUTAN & TUCKER, LLP
611 ANTON BLVD.
SUITE 1400
COSTA MESA CA 92626

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MAR 1 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Qiang ZHOU, et al	:	
Application No. 10/186,831	:	DECISION ON PETITION
Filed: July 1, 2002	:	TO WITHDRAW
Attorney Docket No. H0001104	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 7, 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. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that the acts noted above at items 1 and 3 have been performed. Please see the attached form SB/83 Request for Withdrawal as Attorney or Agent.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: ROBERT FISH
FISH & ASSOCIATES, PC
2603 MAIN STREET, SUITE 1050
IRVINE, CA 92614

Attachment: SB/83 - Withdrawal As Attorney or Agent

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Paper No. 3

KING & SPALDING
191 Peachtree Street, N.E.
Atlanta, GA 30303-1763

MAILED

SEP 2 5 2002

Technology Center 2100

In re Application of: Alex J. Simmons)
Application No. 10/186,837)
Filed: June 28, 2002) **DECISION ON REQUEST FOR**
For: SPACE MANAGEMENT FOR) **WITHDRAWAL AS ATTORNEY**
ELECTRONIC DOCUMENTS)

This is a decision on the Request To Withdraw from Representation filed September 4, 2002.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

For

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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#3
10/22/02

OCT 22 2002

Paper No. 3

Josephine Young
KING & SPALDING
191 Peachtree Street, N.E., 45th Floor
Atlanta, GA 30303

In re Application of: Alex J. Simmons
Application No. 10/186,847
Filed: June 28, 2002
For: METHOD AND SYSTEM FOR EDITING ELECTRONIC INK

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed September 4, 2002.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed September 4, 2002 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

FOR Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

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JAN 1 4 2003

Technology Center 2100

Paper No. 4

Josephine Young
KING & SPALDING
45th Floor,
191 Peachtree Street, N.E.
Atlanta, GA 30303

In re Application of:)
Alex I. Simmons)
Application No. 10/186,874) **DECISION ON REQUEST FOR**
Filed: June 6, 2002) **WITHDRAWAL AS ATTORNEY**
For: METHOD AND SYSTEM FOR)
SELECTING OBJECTS ON A
DISPLAY DEVICE

This is a decision on the Request To Withdraw from Representation filed September 4, 2002.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed September 4, 2002 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

FM James R. Matthews

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

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MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

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MAY 31 2006

OFFICE OF PETITIONS

In re Application of :
Alex J. Simmons et al. :
Application No. 10/186,874 : ON PETITION
Filed: June 28, 2002 :
Attorney Docket No.: :
60001.0361US01/MS300429.1

This is a decision on the petition filed January 30, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed June 29, 2005. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned September 30, 2005. Accordingly, a Notice of Abandonment was mailed January 13, 2006.

This matter is being referred to Technology Center 2179 for appropriate action on the amendment filed January 30, 2006.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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05 JAN 2006

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Alexandria, VA 22313-1450
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Steven G. Roeder
THE LAW OFFICE OF STEVEN G. ROEDER
5560 Chelsea Avenue
La Jolla, California 92037

In re Application of:
PHILLIPS, Alton, et al.
Application No.: 10/186,876
Filing Date: June 28, 2002
Atty Docket No.: PA0395-US/11269.41
For: MULTIPLE SYSTEM VIBRATION ISOLATOR

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the "Petition To Accept An Unintentionally Delayed Claim For Benefit Of A Prior-Filed Application Under 37 CFR 1.78(a)(3)" filed July 15, 2005. The petition seeks acceptance of an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of the prior filed application set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

The present 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 the 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).

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 include:

(1) the reference to the prior-filed application, as required by 35 U.S.C. 120 and 37 CFR 1.78(a)(2)(i), unless previously submitted;
(2) the surcharge set forth in 37 CFR 1.17(t);
(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 present petition does not comply with item (1) above.

An amendment adding a reference to the prior-filed nonprovisional application to the first sentence of the specification following the title has been included in a concurrently filed amendment. However, the amendment is not acceptable as drafted because it does not identify the prior filed nonprovisional application in the required manner. Specifically, the amendment identifies the prior filed application by the patent number, filing date, title, and inventors;

however, 37 CFR 1.78(a)(2) expressly requires that the prior filed application be identified by the "application number (consisting of the series code and serial number)."

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment[1] is required, along with a renewed petition under 37 CFR 1.78(a)(3). The substitute amendment must include a reference to the prior filed application that is acceptable under 37 CFR 1.78(a)(2).

No additional petition fee is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Richard M. Ross at (571) 272-3296.

Boris Milef
Legal Examiner
Office of Petitions and PCT Legal Administration

[1] *Note* 37 CFR 1.121

28 FEB 2006

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Steven G. Roeder
THE LAW OFFICE OF STEVEN G. ROEDER
5560 Chelsea Avenue
La Jolla, California 92037

In re Application of:	:	
PHILLIPS, Alton, et al.	:	DECISION ON RENEWED
Application No.: 10/186,876	:	PETITION UNDER
Filing Date: June 28, 2002	:	37 CFR 1.78(a)(3)
Atty Docket No.: PA0395-US/11269.41	:	
For: MULTIPLE SYSTEM VIBRATION ISOLATOR	:	

In a decision mailed by this Office on 05 January 2006, applicants' "Petition To Accept An Unintentionally Delayed Claim For Benefit Of A Prior-Filed Application Under 37 CFR 1.78(a)(3)" filed July 15, 2005 was dismissed for failure to satisfy all the requirements of a grantable petition. Specifically, the amendment submitted with the petition did not contain an acceptable reference to the prior filed nonprovisional application.

On 17 January 2006, applicants filed the "Renewed Petition To Accept An Unintentionally Delayed Claim For Benefit Of A Prior-Filed Application Under 37 CFR 1.78(a)(3)" considered herein. The Renewed Petition was accompanied by a Supplemental Amendment that amends the first sentence of the application following the title to include a proper reference to the prior-filed application, as provided by 37 CFR 1.78(a)(2)(iii). Applicants have therefore now satisfied all the requirements for a grantable petition.

Having found that the renewed petition, in combination with the original petition, satisfies all the conditions of 37 CFR 1.78(a)(3), the petition is appropriately **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 this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior filed application, all other requirements under 35 U.S.C. 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the Filing Receipt accompanying this decision on petition will include 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 this 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 questions concerning this decision may be directed to Richard M. Ross at (571) 272-3296. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Boris Milef
Legal Examiner
Office of Petitions and PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, DC 20231
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Paper No. 8

STOEL RIVES LLP
900 SW FIFTH AVENUE
SUITE 2600
PORTLAND OR 97204

MAILED

APR 21 2003

Technology Center 2600

In re Application of :
Azami et al. :
Application No. 10/186,877 : DECISION ON REQUEST TO
Filed: June 28, 2002 : WITHDRAW AS ATTORNEY
For: METHOD AND APPARATUS FOR CALL EVENT PROCESSING IN A MULTIPLE PROCESSOR CALL PROCESSING SYSTEM :

This is a decision on the request to withdraw as attorney/agent of record filed on November 26, 2002.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED.**

All attorneys associated with Customer No. 03528 are granted the request for withdraw of attorney/agent. All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: Paul Hashim
Nortel Networks Limited
PO Box 832130
Richardson, TX 75083-2130

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MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND WA 98052-6399

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APR 10 2009

OFFICE OF PETITIONS

In re Application of	:	
Lucovsky et al.	:	
Application No. 10/186,881	:	ON PETITION
Filed: June 28, 2002	:	
Attorney Docket No. 300682.01	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 29, 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 the Issue Fee Transmittal with payment of the plant issue and publication fees, (2) the petition fee, and (3) a proper statement of unintentional delay.

As the Power of Attorney was only recently given to the petitioner, 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.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to the Office of Data Management for processing into a patent.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 3

Steven P. Wigmore, Esq.
KING & SPALDING
45th Floor
191 Peachtree Street, N.E.
Atlanta, GA 30303

MAIL

OCT 0 3 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Keith S. Hamilton, et al.)
Application No. 10/186,882)
Filed: June 28, 2002)
For: SYSTEM AND METHOD FOR RELIABLY EXCHANGING INFORMATION ACROSS A COMPUTER NETWORK)

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed September 4, 2002.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

DATE _____ APPLICATION NUMBER 10/186,882

DOC CODE PET.DEC.TC DOC DATE 9/21/57

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN **8** WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN **16** WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

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900 SECOND AVENUE SOUTH
MINNEAPOLIS MN 55402-3319

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OFFICE OF PETITIONS

In re Application of :
Hamilton, et al. :
Application No. 10/186,882 : ON PETITION
Filed: June 28, 2002 :
Attorney Docket No. 06576.105068 (MS No. 3003 :
For: SYSTEM AND METHOD FOR RELIABLY EXCHANGING INFORMATION ACROSS A COMPUTER NETWORK

This is a decision on the petition under 37 CFR 1.137(b), filed on February 14, 2007 (certificate of mailing February 12, 2007), to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to properly respond to the final Office action mailed February 14, 2006, which set an extendable three month period for reply. Applicants submitted an amendment after final on April 17, 2006 (certificate of mailing date April 11, 2006). The amendment after final failed to place this application in *prima facie* condition for allowance, as is explained in the enclosed Advisory action. This application became abandoned on May 15, 2006. The filing of the present petition precedes the mailing of a Notice of Abandonment.

Applicants have submitted a RCE and required $790.00 fee and a request to use the previously filed amendment as the submission in reply to the February 14, 2006 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the February 14, 2006 final Office action, and the $1,500.00 petition fee.

The statement of unintentional delay presented in the petition does not comply with the current rule. 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" be submitted. However, the statement presented will be accepted and construed as meaning that "the entire delay in filing the required reply from the due date for

the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." If this is an incorrect interpretation in view of the rules, petitioners are required to provide a statement to that effect.

All of the requirements under 37 CFR 1.137(b) being met, the petition is granted.

After the mailing of this decision the application will be forwarded to Technology Center AU 2151 for consideration of the RCE filed on February 14, 2007 (certificate of mailing date February 12, 2007).

Telephone inquiries pertaining to this decision may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Advisory action

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/186,882	Applicant(s) HAMILTON ET AL.	
	Examiner Glenford Madamba	Art Unit 2151	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 April 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____ 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: *None*.
   Claim(s) objected to: *None*.
   Claim(s) rejected: *1,3,4,7,8 and 14-20*.
   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: _____.

Continuation of 3. NOTE: The Office has considered Applicant's remarks/amendments and, with regards to claim 1 in particular, has deemed them unpersuasive to overcome the teachings and disclosures of the prior art reference(s) used in the present rejection of the claims. The Office maintains that the Reed prior art reference discloses the recited feature of a process service or user assembly that determines whether a message should be translated into a requested format prior to sending the message. Specifically, Reed discloses a process service, operative to determine whether the message should be translated into a requested format prior to sending the message to the second computer (Encoding Control) [col 50, line 35 - col 51, line 26]. Reed also discloses the data exchange server (1302) further comprising a user assembly (53 & 57), responsive to a request from the process service to translate the message into the requested format, operative to translate the message into the requested format [Figs. 2, 28] [col 141, line 60 - col 142, line 18]. Finally, with regards to claim 14, the additional/amended feature of a "complete message" versus the originally recited feature of a generic message is a change in scope that may require further search and/or consideration.

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ALEXANDRIA, VA 22313-1450
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LOUIS WOO
LAW OFFICES OF LOUIS WOO
717 NORTH FAYETTE STREET
ALEXANDRIA, VA 22314

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DEC 0 8 2003

OFFICE OF PETITIONS

In re Application of
Bernard Pinot
Application No. 10/186,897
Filed: July 2, 2002
Attorney Docket No. 0103/0058

ON PETITION

This is a decision on the petition, filed December 3, 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 October 29, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (703) 306-5684.

After receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 3745 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAIL

JUL 18 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Paper No. 7

Robert M. Mason
Mason & Petruzzi
13601 Preston Rd., Suite 402W
Dallas TX 75240

In re Application of
PERLMAN, NEIL, et al.
Application No. 10/186,903
Filed: June 29, 2002
For: **HABIT CESSATION AIDE**

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is a decision on the petition filed June 28, 2005 (original filed June 2, 2004 as evidenced by copy of Auto-Reply Facsimile Transmission) to withdraw holding of abandonment pursuant to 37 C.F.R.§ 1.181(a). No fee is required.

The petition is **GRANTED.**

The application was abandoned for failure to respond in a timely and effective manner to the non-final Office action mailed September 4, 2003. A Notice of Abandonment was mailed on May 10, 2004.

Petitioner asserts that a proper response was timely filed on March 12, 2004 (with proper Certificate of Mailing dated March 4, 2004.) In support of the petition, Petitioner has submitted, a copy of Applicant's reply and a date-stamped post card receipt evidencing receipt of the response within the United States Patent & Trademark Office on March 12, 2004. The petition also includes a petition for three months extension of time.

The original correspondence filed was not matched with the application file and cannot be located. However, M.P.E.P. § 503 states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the U.S.PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the response was timely filed in the Patent and Trademark Office but not matched with the application file. The $475 fee submitted with the original response for extension of time has been received and credited to the instant application.

In view of the above stated reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The application file will be forwarded to the Technology Center's technical support staff for entering the copy of the response submitted with the petition. From there, the file will be forwarded to the examiner for further examination in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4-4-05 **Paper No.:** _____

TO SPE OF : ART UNIT 3617

SUBJECT : Request for Certificate of Correction on Patent No.: 6739679

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please check Drawings

Thank You For Your Assistance

E Young
Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

_____

_____

_____

_____

_____

_____ 3617
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

BASF Corporation
Patent Department
26701 Telegraph Road
Southfield, MI 48034-2442

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MAR 14 2005

OFFICE OF PETITIONS

In re Application of :
Donald H. Campbell, et al. :
Application No. 10/186,982 : DECISION ON PETITIONS
Filed: July 1, 2002 : UNDER 37 CFR 1.137(b) AND
Attorney Docket No. IN-5226 UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition filed of February 8, 2005 under 37 CFR 1.137(b), to revive the above-identified application.

This is also a decision on the petition under 37 CFR 1.78(a)(3), filed September 17, 2004 and supplemented on February 8, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed concurrently with the instant petition.

The petitions are **GRANTED**.

A Final Office action was mailed to applicant on May 24, 2004, which set a three-month shortened statutory period for 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 August 25, 2004.

As a reply to the outstanding Office action, applicant has submitted with the petition under § 1.137(b), a Request for Continued Examination (RCE) under 37 CFR 1.114.

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.

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 July 1, 2002, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed nonprovisional application was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Marianne Jenkins at (571) 272-3223.

This application is being referred to Technology Center Art Unit 1712 for processing the RCE filed with the instant petition and for appropriate action on the amendment filed February 8, 2005, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

Frances M. Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No. 041505

AUG 0 1 2005

LASERCOMM, INC.
C/O SHERWOOD PARTNERS
1849 SAWTELLE BLVD
SUITE 543
LOS ANGELES, CA 90025

In re Application of:
JAPHA, YONATHAN et al.
Serial No.: 10/187,002
Filed: July 02, 2002
Attorney Docket No.: **LCP-017**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed September 22, 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 Simon Kahn, on behalf of himself. There is no outstanding Office action at this time.

The request is **APPROVED**.

The law firm of Lasercomm, Inc. remains of record at this time.

All future communications from the Office will continue to be directed to Lasercomm, Inc., until otherwise notified by applicant.

Inquiries related to this decision should be directed to Jose Dees at (571) 272-1569.

Jose Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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Paper No.

JEFFREY J. KING, ESQ.
GRAYBEAL JACKSON HALEY LLP
155-108TH AVENUE, N.E.
SUITE 350
BELLEVUE WA 98004-5901

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APR 19 2005

OFFICE OF PETITIONS

In re Application of	:	
Shane Sterling	:	DECISION ON
Application No. 10/187,008	:	PETITION
Filed: June 28, 2002	:	
Atty Docket No. GENR-0006	:	
	:	

This is in response to the petition under 37 CFR 1.137(b), filed March 31, 2005.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to pay the Issue Fee (and Publication Fee) within three months of the mailing date, November 2, 2004, of the Notice of Allowance and Fee(s) Due. This Office action set a three-month nonextendable statutory period for reply. No reply having been received, the above-identified application became abandoned on February 3, 2005. A courtesy Notice of Abandonment was mailed on March 14, 2005.

The instant petition includes the required reply in the form of payment of the Issue Fee and the Publication Fee[2]; the petition fee set forth in 37 CFR § 1.17(m); and the required statement of unintentional delay. No terminal disclaimer is required.

[2] There was no distinct but concurrent requirement for new drawings.

The Office of Patent Publication has been advised of this decision. The application is ready for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/22/04

TO SPE OF : ART UNIT 2813

10/187,028

SUBJECT : Request for Certificate of Correction on Patent No.: 6,777,858

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:

Paul Whitehead

SPE

2813

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATEN
UNITED STATES PATENT AND TRADEMARK OFFI
WASHINGTON, D.C. 2023
www.uspto.g

Paper No. 3

Josephine Young
KING & SPALDING
191 Peachtree Street, N.E., 45th Floor
Atlanta, GA 30303

MAIL

OCT 1 6 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Keith S. Hamilton, Antero T. Koskinen
Application No. 10/187,029
Filed: June 28, 2002
For: SYSTEM AND METHOD FOR EXCHANGING INFORMATION ACROSS A COMPUTER NETWORK AT VARIABLE TRANSMISSION RATES

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed September 4, 2002.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed September 4, 2002 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

For Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

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

IPSOLON LLP
805 SW Broadway #2740
Portland OR 97205

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JAN 07 2003

OFFICE OF PETITIONS

In re Application of
Farnham, et al.
Application No.: 10/187,047
Filed: June 28, 2002
Attorney Docket No.1265-066/MMM
300044.2

: DECISION GRANTING
: PETITION

This is a decision on the petition entitled PETITION TO CORRECT FILING DATE," filed December 12, 2002 (certificate of mailing date December 5, 2002), requesting that the above-identified application be accorded a filing date of June 28, 2002, instead of the presently accorded date of June 29, 2002.

Petitioners allege that the application was deposited in "Express Mail" service with the U. S. Postal Service, on June 28, 2002. In support, petitioners provided a copy of the Express Mail label, receipt no. EL817829561US, showing a Date-In of June 28, 2002. The same Express Mail receipt number was referred to in the original Application Transmittal Letter submitted with the original filing. Petitioners request that the application be accorded a filing date of June 28, 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 28, 2002.

In view of the above, the petition is granted.

As this is a feeless petition, no petition fee has been or will be charged.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of **June 28, 2002.** The Office of Initial Patent Examination will mail a corrected filing receipt in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (703)308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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ARNOLD & PORTER LLP
555 TWELFTH ST, NW
WASHINGTON, DC 20004

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OCT 2 6 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Nigel Robert Arnold Beeley et al :
Application No. 10/187,051 :
Filed: June 28, 2002 :
Attorney Docket No. 30639.043.CON :

This is a decision on the petition under 37 CFR 1.313(c), filed October 15, 2004, which is being treated under 37 CFR 1.313(c)(1) 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 due to unpatentability of one or more claims. See 37 CFR 1.313(c)(1).

The application is hereby withdrawn from issue.

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 1653.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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GORE ENTERPRISE HOLDSING, INC.
551 PAPER MILL ROAD
P O BOX 9206
NEWARK, DE 19714-9206

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JUL 2 0 2005

OFFICE OF PETITIONS

In re Application of :
Hung van Vo et al :
Application No. 10/187,058 : DECISION GRANTING PETITION
Filed: June 27, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. MP/182G :

This is a decision on the petition under 37 CFR 1.137(b), filed March 22, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before January 21, 2005, as required by the Notice of Allowance and Fee(s) Due, mailed October 21, 2004.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. 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). 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 payment of the $1,400 issue fee and $300 publication fee; (2) the $1,500 petition fee; and (3) an adequate statement of unintentional delay have been received. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

In view of the Notification of Loss of Small Entity Status filed concurrently with the instant petition, this application is no longer entitled to small entity status. Accordingly, all future fees paid in this case must be paid at the large entity rate.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Publishing Division.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEYER WEAVER LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

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MAY 0 9 2008

OFFICE OF PETITIONS

In re Application of :
Binh T. Nguyen :
Application No. 10/187,059 : ON PETITION
Filed: June 28, 2002 :
Attorney Docket No. IGT1P056/P-288

This is a decision on the petition, filed May 5, 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 April 3, 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 3714 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Patent Group
Microsoft Corporation
One Microsoft Way
Redmond, WA 98052

Mail Date: 04/21/2010

Applicant	: Adam Sheppard	: DECISION ON REQUEST FOR
Patent Number	: 7617111	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/187,079	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/28/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1040** 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
WASHINGTON, DC 20231
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Paper No. 5

MAILED

FEB 14 2003

Technology Center 2600

STOEL RIVES LLP
900 SW FIFTH AVENUE
SUITE 2600
PORTLAND OR 97204

In re Application of :
Zahir Azami Seyed :
Application No. 10/187,089 : DECISION ON REQUEST TO
Filed: June 28, 2002 : WITHDRAW AS ATTORNEY
For: **METHOD AND APPARATUS FOR LOAD ESTIMATION IN A CALL PROCESSING ENVIRONMENT** :

This is a decision on the request to withdraw as attorney/agent of record filed on November 26, 2002.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All attorneys and agents associated with Customer No. 3528 of record in this application are removed from record.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

cc: Paul Hashim
Nortel Networks Limited
PO Box 832130
Richardson, TX 75083-2130

UNITED STATES PATENT AND TRADEMARK OFFICE

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Delbert J. Barnard
Barnard & Pauly, P.S.
P.O. Box 58888
Seattle, WA 98138-1888

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DEC 14 2005

OFFICE OF PETITIONS

In re Application of Patterson :
Application No. 10/187,104 : Decision on Petition
Filing Date: July 2, 2002 :
For: Shoulder Mounted Device With :
Eye-Confronting Portion Forwardly :
of a User's Eye :

This is a decision on the petition under 37 CFR 1.137(b), filed August 22, 2005, to revive the above-identified application.

The petition is **granted**.

The petition lists the application number as 10/187,101. Petitioner should ensure all future correspondence lists the correct application number of 10/187,104.

Facts:

A non-final Office action was mailed on January 7, 2005.

An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, this application became abandoned as of midnight on April 7, 2005.

A Notice of Abandonment was mailed on July 25, 2005.

The instant petition requests revival of the application.

Analysis:

Revival of the application:

Petitioner has submitted the required petition fee of $750. Petitioner has submitted a reply to the non-final Office action. Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Extension of Time:

Petitioner submitted payment for a three extension of time.

An extension of time payment is improper if submitted after the maximum extendable period of time to reply to an Office action.

The extension of time payment is unnecessary to revive the application.

The $510 payment for the three-month extension of time will be credited to petitioner's deposit account.

Terminal disclaimer:

The terminal disclaimer is not necessary since the application is not a design application and the application was not filed on or before June 8, 1995.

The terminal disclaimer will not be entered.

Petitioner submitted $55 for the terminal disclaimer fee. The Office charged $10 to petitioner's deposit account for the fee. The $65 will be credited to petitioner's deposit account.

Technology Center 2673 will be informed of the instant decision and will consider petitioner's reply to the non-final Office action 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
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

Paper No. 11

AT&T CORP.
200 LAUREL AVENUE
PO BOX 4110 AND
MIDDLETOWN, NJ 07748

COPY MAILED

JUN 2 6 2003

OFFICE OF PETITIONS

In re Application of :
Benveniste :
Application No. 10/187,132 : ON PETITION
Filed: June 28, 2002 :
Attorney Docket No. 2001-0357 :

This decision concerns the March 12, 2003 renewed petition under 37 CFR 1.47(b).

The renewed petition is **DISMISSED.**

Mathilde Benveniste ("Benveniste") is the sole inventor named in this application. The prior petition under 37 CFR 1.47(b), filed on June 28, 2002, was dismissed on October 18, 2002, in that:

(1) The petition failed to show that Benveniste's former employer, AT&T Corp. ("AT&T"), possessed sufficient proprietary interest in the claimed invention for justifying its filing of the application on behalf of, and as agent for, Benveniste.

(2) The petition was not accompanied by a statement of facts to indicate that, prior to concluding that Benveniste refused to sign the application declaration, AT&T or its representative made a *bona fide* attempt to provide Benveniste with an entire copy of the application (specification including claims; drawings).

The instant renewed petition encloses evidence that establishes AT&T's proprietary interest in this application, and that, Benveniste refused to sign the declaration despite the fact that a *bona fide* attempt had been made to provide her with an entire copy of the application (specification including claims; drawings).

However, as the Office stated in its May 27, 2003 letter, the application still lacks a properly executed oath or declaration.[1] The renewed petition is thus dismissed.

---

[1] One executed by Benveniste, or an officer/designee of AT&T.

The 10/18/02 decision and the 5/27/03 letter both requested a statement under 37 CFR 3.73(b) from AT&T. However, since AT&T is relying on an employment agreement rather than an outright assignment to establish its proprietary interest in this application, a §3.73(b) statement is inappropriate. Therefore, the previous requests for a §3.73(b) statement are hereby vacated.

To prevent abandonment of this application, a second renewed petition under 37 CFR 1.47(b) (no fee) must be submitted within **TWO MONTHS** of the mailing date of this decision,[2] and should be addressed as follows:

by mail/by hand:	Assistant 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.

RCTang
Petitions Attorney
Office of Petitions

---

[2] Unless proper extension(s) of time under 37 CFR 1.136(a) is (are) obtained.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

S.H. Dworetsky
AT&T Corp.
Room 2A-207
One AT&T Way
Bedminster NJ 07921

COPY MAILED

FEB 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Benveniste : ON PETITION
Application No. 10/187,132 :
Filed: June 28, 2002 :
Attorney Docket No. 2001-0357 :

This decision addresses two petitions: (1) the reconsideration petition under 37 CFR 1.47(b), filed December 8, 2004 and (2) the petition under 37 CFR 1.137(b), filed December 8, 2004, to revive the above-identified application.

The petition under 37 CFR 1.47(b) is **granted**.

The petition under 37 CFR 1.137(b) is **granted**.

Petitioner has shown that the non-signing inventor, Mathilde Benveniste, has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the March 12, 2003 reconsideration petition signed by Attorney Christine M. Szwerc establishes that the inventor was mailed, *inter alia*, the application papers, including the specification, claims and drawings, but failed to respond to the request that she sign the declaration. In addition, petitioner has shown that AT&T Corp. has a proprietary interest in the above-identified application with the copy of the employment agreement showing that the inventor had an obligation to assign any patent rights to Bell Telephone Laboratories Inc., its successors or assigns. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and petitioner has shown that such action is necessary to prevent irreparable damage.

The petition under 37 CFR 1.47(b) is **granted**. This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

With respect to the petition under 37 CFR 1.137(b), a review of the application file reveals that this application was filed without an executed declaration, but with a petition under 37 CFR 1.47(b). This petition was dismissed on October 18, 2002. On March 12, 2003, a reconsideration petition was filed. On May 27, 2003, the Office mailed a letter requesting additional documents from petitioner withing 30 days from the mail date of the May 27, 2003 letter. A decision on the March 12, 2003 reconsideration petition was held in abeyance to allow petitioner to submit additional documents. No additional documents were received. The March 12, 2003 reconsideration petition was dismissed on June 26, 2003. The June 26, 2003 decision on petition set an extendable two month period for reply. This application became abandoned on August 27, 2003 for failure to reply to the June 26, 2003 decision.

Petitioner has submitted a proper reply in the form of an acceptable signed declaration and a granted Rule 47(b) petition, an acceptable statement of the unintentional nature of the delay in responding to the June 26, 2003 decision on petition, and the petition fee.[1]

The petition is GRANTED.

After this decision is mailed, the above-identified application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] Pursuant to petitioner's authorization, deposit account no. 20-0782 will be charged the $1,500.00 fee associated with filing a petition to revive under 37 CFR 1.137(b).

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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OCT 21 2004

Paper No. 13

In re Application of :
Hung Chih Chen *et al* :
Application No. 10/187,143 : DECISION ON PETITION
Filed: June 28, 2002 :
Attorney Docket No. 05542-363002/3501-D1/CMP :

This is a decision on the petition filed on May 24, 2004, by which petitioners request withdrawal of the holding that this application stands abandoned for failure to file a timely and proper reply to the final Office action dated September 9, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioners allege that this application is not abandoned because petitioners did in fact file a timely and proper reply to the Office letter in question. Petitioners support this allegation by submitting a copy of the reply, which reply comprises a 37 CFR 1.114 Request for Continued Examination (RCE). The requirement under 37 CFR 1.114 for filing a submission with the RCE is satisfied by the request that the amendment after final action filed on November 7, 2003 be entered. The reply has affixed thereto a 37 CFR 1.8(a) certificate of transmission dated December 9, 2003, a date within the period for filing a reply to Office letter in question. Therefore, it is clear that this application is not abandoned. See 37 CFR 1.8(b). In addition, Office financial records show that the fee for the RCE was in fact received.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner for entry of the RCE, the submission and the petition for extension of time that are attached to the petition. The date to which these papers are entitled is December 1, 2003, with a certificate of mailing date of December 9, 2003. Thereafter, the application will be forwarded to the examiner for immediate consideration and appropriate action.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Patent Counsel
Applied Materials, Inc.
Legal Affairs Department
P.O., Box 450A
Santa Clara, CA 95052

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 4

AT&T CORP.
200 LAUREL AVENUE
PO BOX 4110
MIDDLETOWN, NJ 07748

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OCT 18 2002

OFFICE OF PETITIONS

ON PETITION

In re Application of
Benveniste
Application No. 10/187,158
Filed: June 28, 2002
Attorney Docket No. 2001-0357A

This decision concerns the 37 CFR 1.47(b) petition filed with the application on June 28, 2002.

The petition is **DISMISSED.**

The petition in essence asserts that the sole inventor for the claimed invention, Mathilde Benveniste ("Benveniste"), refuses to sign the application papers, and requests that AT&T Corp. ("AT&T"), Benveniste's former employer, be allowed to file this application on behalf of and as agent for Benveniste.

Under 37 CFR 1.47(b), if it can be shown that Benveniste refuses to execute this application, a person[1] to whom she has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the patent application, may make application on behalf of and as agent for her. The petition essentially alleges that Benveniste refuses to sign the application papers and that, by not signing when requested, she is in breach of the employment agreement under which she has assigned her rights to any invention made by her while employed by Bell Telephone Laboratories, Incorporated ("Bell Labs"), a predecessor-in-interest to AT&T, to Bell Labs or its successors-in-interest. Such a scenario requires that the petition be accompanied by, *inter alia*, proof of the pertinent facts, including a copy of the employment agreement; a statement by AT&T under 37 CFR 3.73(b) to establish AT&T's right as an assignee in prosecuting this application;[2] and a showing that filing the application by AT&T is necessary to preserve the rights of the parties or to prevent irreparable damages.[3]

---

[1] Can be a legal entity such as a corporation; see MPEP section 409.03(b) (Aug. 2001).

[2] See MPEP section 409.03(f) (Aug. 2001) (If the application has been assigned, a copy of the assignment must be submitted. The assignment must clearly indicate that the invention described in the 37 CFR .47(b) application was assigned to the 37 CFR 1.47(b) applicant. **A statement under 37 CFR 3.73(b) by the assignee must also be submitted.**

[3] 37 CFR 1.47(b); also MPEP section 409.03(g) (Aug. 2001): " . . . may be established by a . . . statement that a filing date is necessary to preserve the rights of the party or to prevent irreparable damage." A statement to such effect is included in the instant petition.

AT&T's proprietary interest in this application

The petition encloses an unexecuted assignment and an employment agreement between Benveniste and Bell Labs, entitled "Agreement for Assignment of Inventions" and executed on August 26, 1985. Since the petition relies on this employment agreement to support the assertion that Benveniste has agreed to assign the claimed invention to AT&T, it **must** establish through a **statement by a person having firsthand knowledge of the pertinent facts that the invention at issue was made by Benveniste while employed by AT&T and/or Bell Labs.**

Although Benveniste might have agreed through this Agreement, **nearly 17 years prior to the filing of this application**, to assign to Bell Labs or its successors-in-interest her rights to inventions she makes or conceives during employment by Bell Labs, this Agreement makes no reference to the claimed invention in this application;[4] neither does the petition contain any statement by a person with firsthand knowledge of the facts that Benveniste made the claimed invention while employed by Bell Labs and/or AT&T. Therefore, the petition fails to demonstrate, as required by 37 CFR 1.47(b), that Benveniste has agreed to assign the invention in this application to AT&T or Bell Labs, or that AT&T has otherwise acquired sufficient proprietary interest in this application for justifying filing the application on behalf of and as agent for Benveniste.

The petition also lacks a statement under 37 CFR 3.73(b) by AT&T to establish AT&T's right as an assignee to prosecute this application.[5]

Proof of Benveniste's refusal to sign the application papers

In addition to showing possession of sufficient proprietary interest in this application, AT&T must also provide a **statement of facts** by the person **who** presented an entire copy of the application papers (specification including claims; drawings) to Benveniste[6]/concluded that Benveniste refused to sign/**to whom** the refusal was made.[7] The petition lacks such a statement of facts.

In view of the above, the petition is thus dismissed.

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[4] See *supra* note 2.

[5] *Id.*

[6] MPEP section 409.03(d) (Aug. 2001) (Refusal to join).

[7] *Id.*

OPTIONS

To prevent abandonment of this application,[8] **either** of the following must be submitted within **TWO MONTHS** of the mailing date of this decision:[9]

(1) an oath/declaration properly signed by Benveniste;[10] **or**

(2) a renewed petition under 37 CFR 1.47(b) (no fee) that includes:
- -proper proof that Benveniste made the claimed invention in this application while employed by, or has agreed in writing to assign her rights in this invention to, AT&T and/or Bell Labs; or that AT&T otherwise has sufficient proprietary interest in this application to justify its filing of this application on behalf of and as agent for Benveniste;
- -a proper §3.73(b) statement by AT&T, signed by an officer of AT&T or any person authorized by AT&T to sign it on behalf of AT&T;[11]
- -proper statement(s) of facts regarding the presentation of the entire application papers (specification including claims; drawings) to Benveniste;[12] and the facts relied upon to conclude that she refuses to sign the application;

and is addressed as follows:

by mail/by hand: Assistant 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

Receipt of the $130 petition fee is acknowledged.

---

[8] See 37 CFR 1.53(f).

[9] Unless proper extension(s) of time under 37 CFR 1.136(a) is (are) obtained.

[10] **Submit directly to the Office of Initial Patent Examination along with a copy of this decision.**

[11] A power of attorney from AT&T to a patent practitioner, even an AT&T in-house counsel, to prosecute this application **does not** make the practitioner an official of AT&T or empower the practitioner to sign the §3.73(b) statement on behalf of AT&T. See MPEP section 324(II) (Aug. 2001) PARTY WHO MUST SIGN.

[12] See MPEP section 409.03(d) (Aug. 2001).

Finally, the "Declaration and Power of Attorney under 37 CFR 1.47(b), 1.63, 1.64(b)" enclosed with the instant petition is executed by Christine M. Szwere, who was authorized under an Associate Power of Attorney, executed June 26, 2002, to prosecute this application. The further appointment in this declaration of other practitioners by Christine M. Szwere to prosecute this application is improper and will not be entered.[13]

Telephone inquiries should be directed to Petitions Attorney RC Tang at (703) 308-0763.

for

Beverly M. Flanagan
Supervisory Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[13] Declaration, page 3, paragraph 12. See MPEP section 402.02 (Aug. 2001).

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. 9

AT&T CORP.
200 LAUREL AVENUE
PO BOX 4110 AND
MIDDLETOWN, NJ 07748

COPY MAILED

JUN 2 6 2003

OFFICE OF PETITIONS

In re Application of
Benveniste
Application No. 10/187,158
Filed: June 28, 2002
Attorney Docket No. 2001-0357A

ON PETITION

This decision concerns the March 21, 2003 renewed petition under 37 CFR 1.47(b).

The renewed petition is **DISMISSED.**

Mathilde Benveniste ("Benveniste") is the sole inventor named in this application. The prior petition under 37 CFR 1.47(b), filed on June 28, 2002, was dismissed on October 18, 2002, in that:

(1) The petition failed to show that Benveniste's former employer, AT&T Corp. ("AT&T"), possessed sufficient proprietary interest in the claimed invention for justifying its filing of the application on behalf of, and as agent for, Benveniste.

(2) The petition was not accompanied by a statement of facts to indicate that, prior to concluding that Benveniste refused to sign the application declaration, AT&T or its representative made a *bona fide* attempt to provide Benveniste with an entire copy of the application (specification including claims; drawings).

The instant renewed petition encloses evidence that establishes AT&T's proprietary interest in this application, and that, Benveniste refused to sign the declaration despite the fact that a *bona fide* attempt had been made to provide her with an entire copy of the application (specification including claims; drawings).

However, as the Office stated in its May 27, 2003 letter, the application still lacks a properly executed oath or declaration.[1] The renewed petition is thus dismissed.

---

[1] One executed by Benveniste, or an officer/designee of AT&T.

The 10/18/02 decision and the 5/27/03 letter both requested a statement under 37 CFR 3.73(b) from AT&T. However, since AT&T is relying on an employment agreement rather than an outright assignment to establish its proprietary interest in this application, a §3.73(b) statement is inappropriate. Therefore, the previous requests for a §3.73(b) statement are hereby vacated.

To prevent abandonment of this application, a second renewed petition under 37 CFR 1.47(b) (no fee) must be submitted within **TWO MONTHS** of the mailing date of this decision,[2] and should be addressed as follows:

by mail/by hand:	Assistant 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.

RCTang
Petitions Attorney
Office of Petitions

[2] Unless proper extension(s) of time under 37 CFR 1.136(a) is (are) obtained.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 17

AT&T Corp.
200 Laurel Avenue
PO Box 4110
Middletown, NJ 07748

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OFFICE OF PETITIONS

In re Application of
Mathilde Benveniste
Application No. 10/187,158
Filed: June 28, 2002
Attorney Docket No. 2001-0357A
For: Hybrid Coordination Function . . .

Decision According Status
Under 37 CFR 1.47(b) and
Reviving the Application

This a decision on the petition under 37 CFR 1.137(b), filed December 8, 2004, to revive the above-identified application. This is also a decision on the request for reconsideration under 37 CFR 1.47(b) filed October 28, 2004, and supplemented December 8, 2004.

The petition under 37 CFR 1.137(b) is **granted.**

The petition under 37 CFR 1.47(b) is **granted**.

The petition under 37 CFR 1.137(b)

On June 26, 2003, a decision dismissing a petition under 37 CFR 1.47(b) was mailed. The decision stated that the application would be abandoned unless a renewed petition was filed within an extendable two month time period.

A reply to the June 26, 2003, was not timely filed. Therefore, the application became abandoned as of August 27, 2003.

During the period of abandonment, a Notice to File Missing Parts was mailed to applicant.

On September 14, 2004, the Office informed petitioner that the application was abandoned and vacated the June 29, 2004, Notice to File Missing Parts.

On October 28, 2004, a response to the Notice of Missing Parts and a request for reconsideration under 37 CFR 1.47(b). The response to the Notice of Missing Parts was accompanied by payment of $110 for an extension of time. However, one may not obtain an extension of time when an application is abandoned or if the prior Notice has been vacated. The fee of $110 submitted for an extension of time on October 28, 2004, will be credited to petitioner's deposit account.

A petition to revive was filed December 8, 2004.

Petitioner has met the requirements imposed by 37 CFR 1.137(b). Therefore, the petition is granted and the application revived.

The petition under 37 CFR 1.47(b)

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

The declaration filed on December 8, 2004, has been entered and will be used for examination purposes.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The file is now being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries may be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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GREGORY P. LaPOINTE
BACHMAN & LaPOINTE PC
900 CHAPEL STREET, SUITE 1201
NEW HAVEN, CT 06510-2802

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OFFICE OF PETITIONS

In re Application of
Promila Bhatia
Application No. 10/187,179
Filed: June 27, 2002
Attorney Docket No. 02-257

: 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 March 7, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed nonprovisional application set forth in the concurrently filed amendment. This is also a decision on the petition filed April 27, 2005, which is being treated as a petition under 37 CFR 1.182, for expedited treatment of the petition filed March 7, 2005.

The petition under 37 CFR 1.78(a)(3) is **DISMISSED**.

The petition under 37 CFR 1.182 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.

While the instant petition complies with the above requirements, the petition cannot be granted at this time. More specifically, the proper reply to a final rejection is either the filing of a notice of appeal, an amendment that *prima facie* places the application in condition for allowance, a request for continued examination (RCE) and submission under 37 CFR 1.114, or the filing of a continuing application under 37 CFR 1.53(b). The examiner has indicated that the amendment submitted in response to the January 18, 2005 final rejection does not *prima facie* place the application in condition for allowance for the reasons advanced in the attached courtesy copy of an Advisory Action completed by the examiner.

In view of the above, the petition to accept the late claim for priority under 37 CFR 1.78(a)(3) cannot be granted. Any further petition for reconsideration must be accompanied by a proper reply to the final rejection, along with a renewed petition under 37 CFR 1.78(a)(3).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Courtesy copy of Advisory Action

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NEW HAVEN, CT 06510-2802

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OCT 0 7 2005

OFFICE OF PETITIONS

In re Application of
Promila Bhatia
Application No. 10/187,179
Filed: June 27, 2002
Attorney Docket No. 02-257

: 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 May 19, 2005,[1] to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 10/146,435, as set forth in the amendment filed March 7, 2005.

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

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[1] Unfortunately, it is noted that the Technology Center issued a final rejection prior to the deciding official's office reaching a decision on the renewed petition, despite the fact that the petition was of record and in the computer database records.

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 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 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 forwarded to Technology Center Art Unit 1742 for appropriate action and consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

RBH

Conferree: Brian Hearn

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HARNESS, DICKEY & PIERCE, PLC
P.O. BOX 8910
RESTON, VA 20195

COPY MAILED

FEB 26 2008

In re Application of :
Neil PUESTER, et al. :
Application No. 10/187,200 : DECISION ON PETITION
Filed: July 2, 2002 : TO WITHDRAW
Attorney Docket No. 9077-000003/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 January 10, 2008.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Harness, Dickey & Pierce, PLC has been revoked by the assignee of the patent application on January 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: H. RAY HEFLIN
CAPITOL PATENT & TRADEMARK
LAW FIRM, PLLC
1616 ANDERSON ROAD
MCLEAN, VA 22102

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/187,200	07/02/2002	Neil Puester	9077-000003/US	7451

75304 7590 04/14/2008

CAPITOL PATENT & TRADEMARK LAW FIRM, PLLC
PO BOX 1210
VIENNA, VA 22183

EXAMINER	
ALEJANDRO, RAYMOND	

ART UNIT	PAPER NUMBER
1795	

MAIL DATE	DELIVERY MODE
04/14/2008	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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wk

Mailed : 4-14-08

In re Application of
Neil Puester et al.
Serial No. 10/187,200
Filed: July 2, 2002
For: A Method For Manufacturing A Biplate Assembly, A Biplate Assembly And A Bipolar Battery

: DECISION ON
: PETITION

This is a decision on the PETITION UNDER 37 CFR 1.144 TO WITHDRAW THE RESTRICTION REQUIREMENT mailed April 9, 2007 and made final in the office action mailed October 30, 2007.

On April 9, 2007, the Examiner issued an Office Action contending that newly added claims 40-48 were directed to an invention that was independent or distinct from the invention originally claimed and that the new claims incorporated "mutually exclusive embodiments of distinct biplate assemblies". Applicants responded on October 9, 2007 by rewriting claim 40 to depend from claim 15 and asserting the claims now do not define an independent or distinct invention.

The Examiner issued a final office action on October 30, 2007 that made the restriction final. On February 14, 2008, the instant petition under 37 CFR 1.144 was filed to formally request the withdrawal of the restriction requirement.

DECISION

Section 803 of the MPEP states:

803 Restriction - When Proper

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

In making the restriction final, the examiner states that whether claim 40-48 are in independent form or not they still define additional specific features or characteristic not requires by the claims under immediate examination. Claims 40-48 were deemed to incorporate mutually exclusive embodiments of distinct biplate assemblies. These limitations constitute embodiments with either different materials or structures, or both. Each of the biplate assembly of at least

claim 40 require a materially or structurally distinct embodiment encompassing electrode areas including peripheral regions remaining exposed beyond outer edges of compressed powder electrode. The position of the examiner is reasonable. While a search of the two groups of claims would be overlapping, additional searching would be required for the non-elected group. Such a search would be a serious burden on the examiner.

Accordingly, the petition to withdraw the restriction requirement is **DISMISSED**.

Applicants have additionally requested that upon indication that the product claims are allowed,

Jacqueline M. Stone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Gregory P. Brummett
CAPITOL PATENT & TRADEMARK LAW FIRM, PLLC
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VIENNA VA 22183

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/187,200	07/02/2002	Neil Puester	9077-000003/US	7451

75304 7590 04/21/2008
CAPITOL PATENT & TRADEMARK LAW FIRM, PLLC
PO BOX 1210
VIENNA, VA 22183

EXAMINER	
ALEJANDRO, RAYMOND	

ART UNIT	PAPER NUMBER
1795	

MAIL DATE	DELIVERY MODE
04/21/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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st

Mailed : 4-21-08

In re Application of
Neil Puester et al.
Serial No. 10/187,200
Filed: July 2, 2002
For: A METHOD FOR MANUFACTURING A BIPLATE ASSEMBLY, A BIPLATE ASSEMBLY AND A BIPOLAR BATTERY

: DECISION ON
: PETITION

This is a decision on a REQUEST FOR RECONSIDERATION on the PETITION UNDER 37 C.F.R. §§ 1.144 and 1.181 TO WITHDRAW THE RESTRICTION REQUIREMENT made final in the Office action mailed on October 30, 2007.

On February 16, 2007, Applicants, in conjunction with an RCE filing, added new claims 40-48, with claim 40 being written in independent form. On April 9, 2007, the examiner issued an Office action stating that newly added claims 40-48 were directed to an invention that was independent or distinct from the invention as originally claimed. The examiner held that claims 40-48 were withdrawn from consideration because Applicants had made an election by original presentation. On October 9, 2007, Applicants filed an amendment in which claims 40-48 were amended to depend from previously examined claim 15. On October, 30, 2007, the examiner issued a final Office action that made the restriction requirement final.

On February 14, 2008, the instant petition was filed under 37 C.F.R. §§ 1.144 and 1.181 to request the withdrawal of the restriction requirement in favor of a further office action which address claims 40-48 on their merits.

DECISION

First, the restriction requirement made by the examiner will be addressed. On April 9, 2007, in response to Applicants' RCE filing on February 16, 2007, the examiner issued an Office Action stating that newly added claims 40-48, with claim 40 being written in independent form, were directed to an invention that was independent or distinct from the invention originally claimed and stated that the new claims incorporated "mutually exclusive embodiments of distinct biplate assemblies." The examiner stated that "each of the biplate assembly of at least claims 40, 46-47, and 48 requires a materially or structurally distinct embodiment encompassing electrode areas including peripheral regions remaining exposed beyond outer edges of compressed powder electrode (claim 40) (while the embodiment of claim 15 contains no exposed area per se); or conductive material added (claim 46) or removed from the surfaces (claim 47) (no such material

or removed material is included in claim 15); or two first electrode active materials (i.e. positive active material and Ni-fibers) (claim 48) (the negative electrode can comprises the specific two electrode active materials in claim 15)." The examiner further stated that a serious burden would be raised by a search encompassing the "separate, distinct and mutually exclusive species" and withdrew the new claims from consideration. On October 9, 2007, Applicants filed an amendment in which claims 40-48 were amended to depend from claim 15 and argued that these claims did not define an independent or distinct invention at least by virtue of their dependencies from claim 15, and requested that the restriction be withdrawn. On October, 30, 2007, the examiner issued a final Office action that made the restriction final and stated that "whether claims 40-48 are in independent form or not they still define additional specific features or characteristics not required by the claims under immediate examination" and that the claims encompassed "mutually exclusive embodiments of distinct biplate assemblies" and reiterated the reasoning for the distinct embodiments encompassed by at least claims 40, 46-47, and 48 given in the Office action mailed on April 9, 2007.

Petitioner argues that the examiner's restriction requirement is improper because it fails to identify generic claims or indicate that no generic claims are present or clearly identify each of the disclosed species. The petitioner also argues that examiner is incorrect in holding the position that dependent claims cannot further define a structure or a composition as recited in the broadest independent claim or introduce a new structure or composition that was neither recited nor precluded by the language of the claims from which it depends. While the petitioner agrees that claim 15 contains no exposed area per se, applicant asserts that it is equally true that claim 15 does not preclude a peripheral region of the biplate surrounding the electrode as recited in claim 40. Applicants also state that while claim 15 is silent as to any surface modification of the portion of the biplate on which the electrode is formed, it is equally true that claim 15 does not preclude such surface modification. With respect to claim 48, applicant argues that the "comprising" language of claim 15 should be interpreted to provide for the addition of other conductive, chemically active and/or inert materials to the electrode composition. Applicants admit that claims 46 and 47 do define two distinct species, one in which material is added to the electrode areas (claim 46) and one in which material is removed from the electrode areas (claim 47) and argues that surface modifications defined by these dependent claims are sufficiently related to warrant examination of both species in a single application.

Applicants' arguments are persuasive. Claim 15 is a generic claim to dependent claims 40-48 and that in at least claims 40 and 48, these claims do not define a distinct species from claim 15 but further define the invention. Claim 15 does not state that the surface of the biplate is not treated for roughness which is the alternative embodiment of the biplate shown in Figure 3.

Section 806.04(e) of the MPEP states:

806.04(e) Claims Limited to Species

Claims are definitions or descriptions of inventions. *Claims themselves are never species.* The scope of a claim may be limited to a single disclosed embodiment (i.e., a single species, and thus be designated a *specific species claim*). Alternatively, a claim may encompass two or more of the disclosed embodiments (and thus be designated *a generic or genus claim). Species always refer to the different embodiments of the invention.* Species may be either independent or related as disclosed (see MPEP § 806.04 and § 806.04(b)).

Claims 40 and 48 do not encompass distinct alternative embodiments of applicant's invention. The limitations of claims 40 and 48 further define additional features of applicant's invention.

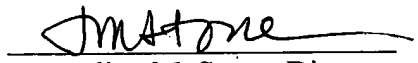
Section 806.03 of the MPEP states:

> Where the claims of an application define the same essential characteristics of a single disclosed embodiment of an invention, restriction therebetween should never be required. This is because the claims are not directed to distinct inventions; rather they are different definitions of the same disclosed subject matter, varying in breadth or scope of definition.

Because the examiner did not give any appropriate reasoning as to why burden exists as required by MPEP 808.02 for searching the two species encompass by claims 46 and 47 and because claims 40 and 48 do not encompass a distinct embodiment or species, the examiner's election of species requirement is not proper. Furthermore, it is noted that in the non-final Office action dated 13 April 2004, original claims 22 and 23, drawn to a biplate assembly reciting respectively the surface roughness of the biplate and nickel fibres in the first electrode, were examined and the limitations of these claims are found in withdrawn claims 40 and 48. Since the limitations recited in claims 22 and 23 were examined, burden does not exist for examining withdrawn claims 40 and 48.

Accordingly, the instant petition to withdraw the restriction requirement is **GRANTED**.

The application is being forwarded to the examiner to prepare a new non-final Office action which includes examination and action on the merits of the claims previously withdrawn from consideration due to the restriction requirement.



Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

GREGORY BRUMMETT
CAPITOL PATENT & TRADEMARK LAW FIRM, PLLC
PO BOX 1210
VIENNA VA 22183

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GRAYBEAL JACKSON HALEY LLP
155 – 108TH AVENUE NE
SUITE 350
BELLEVUE, WA 98004-5901

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MAR 27 2006

OFFICE OF PETITIONS

In re Application of :
Jeongnam Youn et al :
Application No. 10/187,255 : DECISION ON PETITION
Filed: June 28, 2002 : TO WITHDRAW
Attorney Docket No. 1552-19-3 : 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 24, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Richard Gary Jr. and others 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.

David Bucci for
Petitions Examiner
Office of Petitions

cc: Marger Johnson & McMollom, P.C.
210 SW Morrison Street, Suite 400
Portland, OR 97204

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GRAYBEAL JACKSON HALEY LLP
SUITE 350
155-108TH AVENUE N.E.
BELLEVUE, WA 98004-5901

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JUN 05 2006
OFFICE OF PETITIONS

In re Application of :
Jeongnam Youn et al :
Application No. 10/187,261 : DECISION ON PETITION
Filed: June 28, 2002 : TO WITHDRAW
Attorney Docket No. 1552-20-3 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 5, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Bryan A. Santarelli and the practitioners associated with Customer Number 00996 have been revoked by the assignee of the patent application on February 24, 2006 and accepted by the Office on April 7, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Marger Johnson & McCollom PC
210 SW Morrison Street, Suite 400
Portland, OR 97204

UNITED STATES PATENT AND TRADEMARK OFFICE

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MARGER JOHNSON & McCOLLOM PC
210 SW MORRISON STREET, SUITE 400
PORTLAND, OR 97204

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JUN 05 2006

OFFICE OF PETITIONS

In re Application of	:	
Jeongnam Youn et al	:	DECISION ON PETITION
Application No. 10/187,261	:	UNDER 37 CFR 1.137(b)
Filed: June 28, 2002	:	
Attorney Docket No. 7293-243	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 20, 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 February 28, 2006 as required by the Notice of Allowance and Fee(s) Due, mailed November 29, 2005.

The petition satisfies the requirements for a grantable petition in that the reply in the form of payment of the $1,400 issue fee and $300 publication fee, the petition fee of $1,500, and the required statement of unintentional delay have been submitted. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Publishing Division.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 6

FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

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MAR 2 4 2003

OFFICE OF PETITIONS

In re Application of :
Steven R. Blackwell et al :
Application No. 10/187,263 : DECISION GRANTING PETITION
Filed: June 28, 2002 : UNDER 37 CFR 1.137(f)
Attorney Docket No. 21676-06456 (CT-81) :

This is a decision on the petition, filed February 5, 2003, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

The instant nonprovisional application is the subject of an application filed in a foreign country on September 5, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of

filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice of Acceptance of Publication Request which sets forth the projected publication date of July 3, 2003 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.

This application is being forwarded to Technology Center Art Unit 2634 for examination in due course.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Notice of Acceptance of Publication Request

#5

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/187,263	06/28/2002	Steven R. Blackwell	21676-06456 (CT-81)

CONFIRMATION NO. 8700

OC000000009687542

00758
FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

Date Mailed: 03/24/2003

NOTICE OF ACCEPTANCE OF PUBLICATION REQUEST

The request for voluntary publication, amended publication, early publication, republication, correction, or revised publication has been received for this application. The request, including payment of any necessary fee(s), is in compliance with 37 CFR 1.219 or 1.221. The projected publication date is 07/03/2003.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 7

OPPENHEIMER WOLFF & DONNELLY LLP
1400 Page Mill Road
Palo Alto, CA 94304-1124

MAILED

JUL 2 2 2003

Technology Center 2100

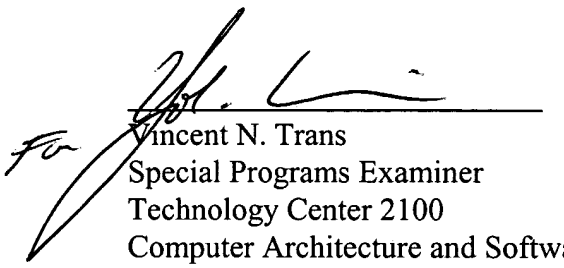
In re Application of: Dale W. Hopkins, et al.)
Application No. 10/187,266)
Filed: June 28, 2002) **DECISION ON REQUEST FOR**
For: METHOD AND SYSTEM FOR) **WITHDRAWAL AS ATTORNEY**
SECURE STORAGE,)
TRANSMISSION AND CONTROL)
OF CRYPTOGRAPHIC KEYS)

This is a decision on the Request To Withdraw from Representation filed May 16, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.



Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Attn: Bill Streeter
Hewlett-Packard Company
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

10/187278 USPN 6863894

Paper No.:22082005

DATE : August 22, 2005

TO SPE OF : ART UNIT 1638

SUBJECT : Request for Certificate of Correction on Patent No.: 6863894

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:

W. Gary Jones
Supervisory Patent Examiner
Technology Center 1600

SPE: Gary Jones **Art Unit** 1638

cofc ✓

OIPE JUN 06 2005 JC32 PATENT & TRADEMARK OFFICE

Dkt. #871-BA-US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : David BERMUDES and Kenneth Brooks LOW

U.S. Serial No.: 10/187,278, now U.S. Patent No. 6,863,894, issued March 8, 2005, continuation of U.S. Serial 09/149,832, filed September 8, 1998, now U.S. Patent No. 6,447,784, issued September 10, 2002, which is a continuation-in-part of U.S. Serial No. 08/926,636, filed September 10, 1997, now U.S. Patent No. 6,080,849, issued June 27, 2000

Filed : June 27, 2002

For : GENETICALLY MODIFIED TUMOR-TARGETED BACTERIA WITH REDUCED VIRULENCE

Law Offices of Albert Wai-Kit Chan, LLC
World Plaza, Suite 604
141-07 20th Avenue
Whitestone, New York 11357

June 2, 2005

Certificate
JUN 14 2005
of Correction

Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir/Madam:

ok to enter PTB 8/22/05

COMMUNICATION TO REQUEST CERTIFICATE OF CORRECTION

Applicants hereby submit a request for a Certificate of Correction for the above-identified issued patent. Form PTO/SB/44 is attached hereto as **Exhibit A**. The fee for requesting a Certificate of Correction is ONE HUNDRED DOLLARS ($100.00). Accordingly, Applicants hereby submit a check in the amount of ONE HUNDRED DOLLARS ($100.00) to cover the requisite fee.

Sheet 3 of 18 of the drawings for U.S. Patent No. 6,863,894, issued March 8, 2005, consisting of Figures 3A-C, show Figures 3B

06/07/2005 SSITHIB1 00000045 6863894
01 FC:1811 100.00 OP

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,863,894 B2
APPLICATION NO.: 10/187,278
ISSUE DATE : March 8, 2005
INVENTOR(S) : David BERMUDES and Kenneth Brooks LOW

OK to enter PMB 8/22/05

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 the drawings, sheet 3 of 18, consisting of Figures 3A-C, should be deleted and replaced with corrected drawings, replacement sheet 3 of 18, consisting of Figures 3A, 3B, and 3C, as shown and attached hereto. Figures 3B and 3C were inadvertently shown in reverse order in original sheet 3 of 18 of the drawings but are now correctly shown in replacement sheet 3 of 18.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Law Offices of Albert Wai-Kit Chan, LLC
World Plaza, Suite 604
141-07 20th Avenue
Whitestone, New York 11357

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Paper No. 8

LEYDIG VOIT & MAYER LTD
700 THIRTEENTH ST NW
SUITE 300
WASHINGTON DC 20005-3960

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MAR 19 2003

OFFICE OF PETITIONS

In re Application of
Fujimoto, et al.
Application No. 10/187,303
Filed: July 2, 2002
Attorney Docket No. 402132/SOGA

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed December 5, 2002.

The petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on July 2, 2002. On August 5, 2002, petitioner was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition under 37 CFR 1.47(a) and paid the surcharge for late filing of the declaration. To make timely this reply, applicant obtained a two month extension of time. Accompanying the petition was a declaration executed by joint inventors Katsuhisa Tokuhara, Hitoshi Mitsuma, and Nobuyuki Sato, but lacking a signature from joint inventor Yasushi Fujimoto.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, oath or declaration); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventors.

On petition, petitioner has supplied a copy of a written e-mail refusal to sign the declaration by inventor Fujimoto, dated July 12, and July 15, 2002.[1] The evidence set forth on petition fails to establish that Fujimoto was forwarded a copy of the application papers, consisting of the specification, claims, and drawings. Regarding this, the Manual of Patent Examining Procedure states that when an inventor has not been presented with the application papers and yet refuses to sign the declaration, it "does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign...." However, the e-mail correspondence to Fujimoto made it clear that Fujimoto understood what he was being asked to sign.

[1] As the refusal was in Japanese, petitioner has supplied a translation of the letter.

Accordingly, the declaration and the petition both filed on December 5, 2002 have been reviewed and found to be in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Technology Center 2100, Group Art Unit 2123, for docketing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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CHIBA 272-0133
JAPAN

COPY MAILED

MAR 19 2003

OFFICE OF PETITIONS

In re Application of :
Yasushi Fujimoto, Katsuhisa :
Tokuhara, Mitsuma Hitoshi, and :
Nobuyuki Sato :
Application No. 10/187,303 :
Filed: July 2, 2002
Title: EFFECTIVE VALUE IMPEDANCE SIMULATION METHOD AND APPARATUS AND EFFECTIVE VALUE IMPEDANCE SIMULATION PROGRAM

LETTER

Dear Mr. Fujimoto:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 USC 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, agent of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (703) 305-0272. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Cliff Congo
Petitions Attorney
Office of Petitions

Jeffrey A. Wyand
Leydig, Voit & Mayer
700 Thirteenth Street, N.W., Suite 300
Washington, DC 20005-3960

UNITED STATES PATENT AND TRADEMARK OFFICE

SEP 9 2005

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CHICAGO, IL 60606-6357

In re Application of Alex G. Katrukha et al. :
Serial No. : 10/187,310 :PETITION DECISION
Filed : July 1, 2002
Attorney Ref No. :28573/34811

This letter is in response to the Petition under 37 C.F.R. § 1.181 and § 1.144 filed on June 2, 2005, to request the review and withdrawal of the restriction requirement. The delay in acting on this petition is regretted.

BACKGROUND

A review of the file history shows that the application was filed on July 1, 2002 as a continuation of the abandoned application 09/102,328 filed on June 22, 1998 which is a CIP of PCT/FR97/00399, filed on June 23, 1997, which is a CIP of the abandoned 08/670,013 filed on June 25, 1996.

The application as filed included original claims 1-18. In a Second Preliminary Amendment, claims 1-18 were canceled and new claims 19-30 were added. On June 2, 2004, the Examiner issued a three-way Restriction Requirement that is the subject of this petition. The Examiner alleged that pending claims 19-30 were directed to three distinct inventions, i.e., claims 19-22 of Group I drawn to a method of assaying troponin 1, claims 23-25 of Group II drawn to standard preparations of troponin I or a calibrator preparation of troponin, and claims 26-30 of Group III drawn to kits for assaying of troponin I comprising a monoclonal or polyclonal antibody to troponin I, a detectable label and a standard or calibrator preparation comprising . The Examiner provided support in the form of pair wise treatments of the three asserted inventions. Examiner asserted that inventions of Group I and II were distinct inventions although related as product and process of use because the troponin standard product could be used in protein binding kinetic studies, an asserted materially different process from the claimed diagnostic process. Inventions of groups I and III were asserted as distinct inventions, although related as product and process of use because the immunoassay kit product could be used in immunoaffinity chromatography methods, a materially different process from the claimed

diagnostic process. Groups II and III were asserted to be unrelated because invention II is an isolated complete native troponin complex for use as a standard and invention III is a kit comprising an antibody, a solid phase, a label and the standard for use in assaying troponin 1.

In response, the Applicant filed an election of Group II (claims 23-25) with traverse on June 26, 2004, In traversing the restriction requirement, applicant argued that Groups I and II were not shown to be distinct inventions because protein binding kinetic studies, the process assertedly materially different from the claimed diagnostic process, was in fact a form of diagnostic process embraced by the claims of Group I and therefore the sole process identified as a materially different use of the Group II product did not differ, and thus could not materially differ, from the diagnostic process of Group I. Next, applicant argued that Groups I and III were not shown to be distinct inventions because immunoaffinity chromatography (the process asserted to be materially different from the claimed diagnostic process) of a kit containing already-purified antigen (troponin standard) and already-purified antibody specifically recognizing it, was not a reasonable use of the kit subject matter. Subjecting a kit of purified antigen and antibody to immunoaffinity chromatography was unnecessary for purification and would confound the results of any assay conducted using immunoaffinity chromatography. Next, applicants argued that Groups II and III were not shown to be drawn to unrelated inventions because the restriction between these two groups was not supported by any reason, and that Examiner factually characterized the claims of group II as drawn to an isolated complete native troponin complex having equimolar proportions of TnI, TnC, and TnT for use as standard and the claims of group III as drawn to a kit having a monoclonal antibody, solid phase, label and standard for use in assaying for troponin I.

In the first Office action on the merits dated September 30, 2004, the Examiner maintained the Restriction Requirement, made it Final, and withdrew claims that were directed to non-elected subject matter. In maintaining the Restriction Requirement, the Examiner relied on M.P.E.P. § 806.05(d) and asserted distinct inventions were shown by establishing that the subject matters of the claim groups were searched under separate classifications, had separate utilities, and that the searches would not be co-extensive because of structural and functional differences among the subject matters of the claim groups.

On February 28, 2005, applicants filed a response to the first action on the merits in which they maintained their traversal of the restriction requirement. Applicants argued that examiner has not established a *prima facie* case for independent and distinct inventions claimed. Applicants also disagreed that a search burden exists to search and examine all the three groups.

On May 18, 2005, Examiner issued a final rejection of the elected claims and asserted the Restriction Requirement arguing any requirement set forth in the parent application is not binding, with respect to the requirements set forth for the present application and that it was initially agreed upon that applicant's argument to obviate the prior art rejection in the abandoned parent application and its applicability to the instant application was persuasive, and therefore the same rejection was not applied in the instant application and accordingly, a search required again for each separate group of invention in this application would impose serious burden to

Examiner. As an example, Examiner argued that the Rochet reference used to reject the claims under examination properly encompasses the scope of the elected Group, i.e. composition and method of preparing the composition and there is no teaching in Rochet of a kit or a method of using the product, as they would encompass different inventions. Examiner argued that Groups I and III, are independent and distinct because they are drawn to method of use of the composition and a kit, respectively, which would require further separate searches due to their differences in structural and functional requirements, imposing undue burden upon Examiner. Examiner also argued that while the subject matter between the different inventions overlap in nature, the searches for all three groups are not necessarily coextensive in nature. Examiner concluded that the requirement is still deemed proper and made it FINAL.

On June 2, 2005, applicants filed the instant petition to request review and withdraw the three way restriction requirement.

DISCUSSION

The application, file history and petition under 37 C.F.R. 1.144, to request review of the restriction requirement has been considered.

Applicant's complete argument has been considered in full. Prior to the discussion of the merit of the petition, it is noted that those claims currently being examined are drawn to Group II drawn to a troponin I standard or calibrator preparation comprising equimolar proportion of troponin I, troponin T and troponin C.

This decision is in response to the Petition under 37 C.F.R. 1.144, filed on June 2, 2005, to request the reconsideration and withdrawal of the restriction requirement.

With reference to the restriction of Groups I and II applicants submit that they were not shown to be distinct inventions because protein binding kinetic studies, the process materially different from the claimed diagnostic process, was in fact a form of diagnostic process embraced by the claims of Group I and therefore the sole process identified as a materially different use of the Group II product did not differ, and thus could not materially differ, from the diagnostic process of Group I. This is not found persuasive because, the protein binding kinetics and the diagnostic process are indeed two distinct processes comprising different steps with different end results. Furthermore, apart from the method of use of the product of Group II indicated by the examiner as distinct, the product can indeed be used for raising specific antibodies only as opposed to the diagnostic immunoassay method of group I for assaying troponin I in a serum sample of a patient. Therefore, the inventions of group I and II are clearly patentably distinct from each other. However, the method of group I may be eligible for rejoinder with the product of Group II if it is determined that the product is allowable. See MPEP 821.04.

Regarding the restriction between groups I and III, applicants submit that Groups I and III were not shown to be distinct inventions because, immunoaffinity chromatography (the process asserted to be materially different from the claimed diagnostic process) of a kit containing already-purified antigen (troponin standard) and already-purified antibody specifically recognizing it, was not a reasonable use of the kit subject matter. Subjecting a kit of purified antigen and antibody to immunoaffinity chromatography was unnecessary for purification and would confound the results of any assay conducted using immunoaffinity chromatography. Applicant also argues that immunoaffinity chromatographic method is not a process for using the claimed kit and therefore the immunoaffinity chromatography method does not present a materially different process for using the claimed kit for use in the claimed diagnostic immunoassays. This is also not found persuasive. It appears that applicants have concluded that the immunoaffinity chromatography method asserted by the Examiner includes the use of both the troponin polypeptide and its antibody together. Rather, as is well known in the art the method of immunoaffinity chromatography purification can be directed to the immunoaffinity purification of the troponin polypeptide using the antibody of the kit or the purification or the detection of the troponin antibody in a given sample using the troponin polypeptide of the kit. These are two separate methods of using the components of the kit. Such a method would be patentably distinct from the claimed method of group I, directed to a diagnostic immunoassay for troponin I in a serum sample. According to (MPEP § 806.05(h)) the inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product. In the instant case, the immunoassay kit components as asserted by the Examiner can indeed be used in immunoaffinity chromatography methods. These methods involve distinct steps with distinct end results and are therefore are clearly patentably distinct from each other as asserted by the Examiner.

Regarding the restriction of groups II and III, applicants submit that Groups II and III were not shown to be drawn to unrelated inventions because the restriction between these two groups was not supported by any reason, and that Examiner factually characterized the claims of group II as drawn to an isolated complete native troponin complex having equimolar proportions of TnI, TnC, and TnT for use as standard and the claims of group III as drawn to a kit having a monoclonal antibody, solid phase, label and standard for use in assaying for troponin I. Applicants argue, the statements in the Office Action of June 2, 2004 do not establish, and do not even address, whether the standard preparation (Group II) and kit (Group III) have different modes of operation, different functions or different effects and therefore a *prima facie* basis for restricting the claims of Groups II and III has not been established. Moreover, Applicant submits that a *prima facie* basis for asserting that the standard preparation and kit are unrelated inventions cannot be established and that the claimed kit comprises the standard preparation, as is evident from independent claim 26, which expressly recites "a standard or calibrator preparation according to claim 23". Applicants also submit that Claim 23 is the independent claim drawn to the standard preparation and that one need look no further than the express language of the claims themselves to realize that the subject matter of the claims of Group II (standard preparation) is expressly disclosed as capable of being used in the kit-based subject

matter of the Group III claims and that there is no reasonable basis for concluding that the claimed subject matters of Groups II and III were not disclosed as being capable of use together. Applicant's arguments traversing the restriction of claims as Group II and III is found persuasive in that claims of both groups are directed to the same product.

DECISION

For these reasons, the petition under 37 C.F.R. 1.144, to request to withdraw of the lack of unity determination is **GRANTED-IN-PART**. As discussed above, the request for the rejoinder of Groups II and III is **GRANTED** and the request for the rejoinder of Groups I and II or I and III is **DENIED**.

Any request for consideration must be filed within two (2) months of the mailing date of this decision.

The application will be forwarded to the examiner to take appropriate action as a result of this petition decision and to consider the amendments and arguments filed by applicants on June 2, 2005.

Should there be any questions regarding this decision, please contact Special Program Examiner Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 703-273-8300.

George Elliott
Director, Technology Center 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11-8-05

TO SPE OF : ART UNIT 1615.

SUBJECT : Request for Certificate of Correction on Patent No.: 6,939,561

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

Monuma
Certificates of Correction Branch

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:

MICHAEL G. HARTLEY
SUPERVISORY PATENT EXAMINER

SPE — Art Unit 1618

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

PTOL-306 (REV. 7/03)

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OFFICE OF PETITIONS

In re Application of :
John S. Lollar :
Application No. 10/187,319 : ON PETITION
Filed: June 28, 2002 :
Attorney Docket No. 75-95K :

This is a decision on the petition, filed October 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 September 13, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being referred to Technology Center AU 1653 for further processing of the request for continued examination under 37 CFR 1.114 filed October 5, 2004.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: " Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Patent No. 6,930,480 :
Issue Date: August 16, 2005 :
Application No. 10/187,353 : NOTICE
Filed: June 28, 2002 :
Attorney Docket No. 33723US1

This is in response to the paper filed October 13, 2005 under 37 CFR 1.28(b) requesting that status as a Small Entity be removed.

In accordance with the October 13, 2005 request, status as a Small Entity has been removed.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6616477	2003-09-09	10187359	2002-07-02	BHT-3092-312

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	/Roger H. Chu, Reg. # 52745/	Date (YYYY-MM-DD)	2009-04-03
Name	Roger H. Chu	Registration Number	52745

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. 6616477
Issue Date: September 9,2003
Application No. 10187359
Filed: July 2,2002
Attorney Docket No. BHT-3092-312

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 3,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 3,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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GREENBLUM & BERNSTEIN PLC
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

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OFFICE OF PETITIONS

In re Application of	:	
Kazutoyo Maehiro	:	
Application No. 10/187,371	:	DECISION GRANTING PETITION
Filed: July 2, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. P22384	:	

This is a decision on the petition, filed March 5, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 19, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2155 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement stated to have been filed of even date.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment.*

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 8

FISH & RICHARDSON, PC
4350 LA JOLLA VILLAGE DRIVE
SUITE 500
SAN DIEGO, CA 92122

COPY MAILED

OCT 0 7 2003

OFFICE OF PETITIONS

In re Application of :
Gary A. Demos :
Application No. 10/187,395 :
Filed: June 28, 2002 :
Attorney Docket No. 07314-015001 :

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed June 18, 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 **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on June 27, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b)/(f). However, while the statement of unintentional delay does not comply with the rule, the statement presented will be construed as meaning that "the entire delay in filing the required reply [notification of foreign filing under 35 U.S.C. § 122(b)(2)(B)(iii)] until the filing of a grantable petition was unintentional." Accordingly, the failure to timely notify the USPTO of a foreign or international

filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of January 8, 2004 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (703) 305-9220.

This application is being forwarded to Technology Center Art Unit 2613 for examination in due course.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Conferee: Frances M. Hicks
Lead Petitions Examiner

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

11-6-07

Patent No. : 7,266,150 B2
Ser. No. : 10/187,395
Inventor(s) : Gary A. Demos
Issued : September 4, 2007
Title : INTERPOLATION OF VIDEO COMPRESSION FRAMES

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 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 is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Eva James
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or 125

Dwight U. Thompson
Fish & Richardson
P.O. Box 1022
Minneapolis, Minnesota 55440-1022

ej

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED

AUG 14 2009

OFFICE OF PETITIONS

In re Patent No. 7,266,150 :
Issue Date: September 04, 2007 :
Application No. 10/187,395 : DECISION ON PETITION
Filed: June 28, 2002 :
Attorney Docket No. **07314-015001** :

This is a decision on the petition filed November 16, 2007, which is being treated as a petition under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction.

The petition is **DISMISSED**.

Petitioner requests issuance of a certificate of correction in the name of "Dolby Laboratories Licensing Corporation."

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 **before issuance of the patent**, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter [emphasis added]. *See also* MPEP 1481.01.

The assignment records at USPTO disclose both Dolby Laboratories, Inc. and Dolby Laboratories Licensing Corporation to be the assignees of record. As the correction to the assignee's name sought in the instant petition differs from the records at the Office, the petition cannot be granted at this time.

Telephone inquiries concerning this decision on petition should be directed to Tredelle Jackson at (571) 272-2783.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 6

OPPENHEIMER WOLFF & DONNELLY LLP
1400 Page Mill Road
Palo Alto, CA 94304-1124

MAILED

JUL 2 2 2003

Technology Center 2100

In re Application of: Dale W. Hopkins, et al.)
Application No. 10/187,404)
Filed: June 28, 2002)
For: METHOD AND SYSTEM FOR SECURE STORAGE, TRANSMISSION AND CONTROL OF CRYPTOGRAPHIC KEYS)

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed May 16, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Attn: Bill Streeter
Hewlett-Packard Company
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

UNITED STATES PATENT AND TRADEMARK OFFICE

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OYEN, WIGGS, GREEN & MUTALA LLP
480 - THE STATION
601 WEST CORDOVA STREET
VANCOUVER BC V6B 1G1 CA CANADA

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DEC 14 2006

OFFICE OF PETITIONS

In re Application of :
Steenburgh et al. :
Application No. 10/187,438 : ON PETITION
Filed: July 28, 2002 :
Attorney Docket No. P388 0006 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 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 the Issue Fee Transmittal with payment of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 19

HAMILTON BROOK SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

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MAY 11 2004

OFFICE OF PETITIONS

In re Application of :
Lawrence A. Kaufman et al :
Application No. 10/187,464 :
Filed: June 28, 2002 :
Attorney Docket No. 3239.1003-001

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to the Publishing Division.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LOWRIE, LANDO & ANASTASI
RIVERFRONT OFFICE
ONE MAIN STREET, ELEVENTH FLOOR
CAMBRIDGE MA 02142

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MAR 09 2006

OFFICE OF PETITIONS

In re Application of :
Gilles Gagnon :
Application No. 10/187,476 : DECISION ON PETITION
Filed: 1 July, 2002 :
Attorney Docket No. :
N00401/70006 GSE/SMH :

This is a decision on the petition filed on 23 January, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 18 November, 2005, for failure to timely file a proper reply to the final Office action mailed on 17 May, 2005, which set a three (3) month shortened statutory period for reply. On 17 November, 2005, an amendment after final rejection and request for a three (3) month extension of time in accordance with 37 CFR 1.136(a) were filed. However,

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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)).

the examiner determined that the amendment did not *prima facie* place the application in condition for allowance. An Advisory Action Before the Filing of An Appeal Brief was mailed on 5 December, 2005. The filing of the present petition precedes the mailing of Notice of Abandonment.

Petitioner has filed a Request for Continued Examination (RCE) and fee as the required reply, and indicated that the previously filed amendment after final rejection is the submission required by 37 CFR 1.114.

This application is being referred to Technology Center Art Unit 2831 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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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MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO
ONE FINANCIAL CENTER
BOSTON MA 02111

MAILED

FEB 18 2010

OFFICE OF PETITIONS

In re
Proicou, et al.
Application No. 10/187,477
Filed: July 1, 2002
Patent No. 7,025,754
Issued: April 11, 2006

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed December 1, 2009.

The fee deficiency submission under 37 CFR 1.28 of $282 is hereby **accepted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

LYON & LYON, LLP
633 WEST FIFTH STREET
SUITE 4700
LOS ANGELES, CA 90071

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DEC 19 2002

OFFICE OF PETITIONS

In re Application of :
Michael Evans and Will R. DuBrul. :
Application No. 10/187,492 : DECISION GRANTING PETITION
Filed: July 1, 2002 : UNDER 37 CFR 1.47(a)
Title: DISTAL PROTECTION DEVICE :

This is in response to the "Petition Under 37 CFR 1.47(a)," filed October 16, 2002.

The petition is **granted**.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

The file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Senior Petitions Attorney
Office of Petitions
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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ORRICK, HERRINGTON & SUFCLIFFE, LLP
4 PARK PLAZA, SUITE 1600
IRVINE, CA 92614-2558

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AUG 15 2005

OFFICE OF PETITIONS

In re Application of :
Michael Evans, et al. :
Application No. 10/187,492 : ON PETITION
Filed: July 1, 2002 :
Attorney Docket No. 703277-28 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 1, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The statement claiming small entity status in accordance with 37 CFR 1.27 embodied in the petition under 37 CFR 1.137(b) has been made of record and small entity status has been accorded.

The Change of Correspondence Address has been accepted and recorded.

The petition satisfies the requirement of 37 CFR 1.137 (b) in that petitioner has supplied (1) the reply in the form of an Amendment; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the petition of April 1, 2005 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter is being referred to Technology Center 3700, Art Unit 3743 for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CHARLES F. MERONI, JR.
MERONI & MERONI, P.C.
POBOX 309
BARRINGTON IL 60011

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SEP 10 2007

OFFICE OF PETITIONS

In re Application of :
Dudley : DECISION ON PETITION
Application No. 10/187,527 :
Filed: July 2, 2002 :
Atty. Dkt. No.: 01127 :

This decision is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed August 15, 2007.

This application was held abandoned February 12, 2007 for failure to timely submit a proper reply to the Office action mailed January 11, 2007. The Office action set a one month shortened statutory period of time for reply. Notice of Abandonment was mailed July 31, 2007.

Petitioner alleges non-receipt of the Office action mailed January 11, 2007. Petitioner has, moreover, provided supporting documentation to support a contention of non-receipt.

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 to practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. *See*, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

Office records indicate the Office action was properly mailed to the correspondence address of record at the time of mailing.

Accordingly, there was no irregularity in mailing the Office communication on the part of the United States Patent and Trademark Office.

Nevertheless, in view of the evidence presented, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

This application is being forwarded to Group Art Unit 3600 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE OF DATA MANAGEMENT

LAHIVE & COCKFIELD, LLP
FLOOR 30, SUITE 3000
ONE POST OFFICE SQUARE
BOSTON MA 02109

In re Application of :
HOWLEY, PETER M. et al. : **DECISION ON PETITION**
Application No. 10/187,536 :
Filed: July 1, 2002 :
Attorney Docket No. HMI-017CPDVRCE2 :

This is a decision on the Request To Withdraw Holding Of Notice Of Abandonment received in the United States Patent and Trademark Office (USPTO) July 10, 2008, which is being treated as a Petition To Withdraw Holding Of Abandonment for the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely pay the issue fee as required by the Notice of Allowance and Fee(s) Due, mailed March 3, 2008, which set forth a three (3) month statutory period for reply. Accordingly, the Notice of Abandonment was mailed on June 26, 2008.

Petitioner states that the Applicants responded by timely paying the Issue Fee on May 14, 2008 which was received by Patent and Trademark Office. In support of this assertion the petitioner has submitted documents, which include the following:

copy of "Express Mail" mailing label No. EM 194 129 491 US with a "Date in" of May 13, 2008

copy of Form PTOL-85B (FEE(S) TRANSMITTAL) signed by Megan E. Williams

The petitioner has demonstrated that the Fee Transmittal was timely mailed via Express Mail on May 13, 2008, and is in compliance with 37 CFR 1.10 in that

(1) the Patent and Trademark Office was promptly informed of the previous timely mailing,

(2) a copy of the previously mailed correspondence with the "Express Mail" mailing label thereon has been submitted,

(3) included a true copy of the "Express Mail" mailing label showing the "date in," and

(4) included a statement which attests to the previous timely mailing.

In view of the foregoing, the holding of abandonment for failure to timely pay the issue fee is hereby withdrawn and the application restored to pending status.

The Office acknowledges receipt of the Deposit Account in the amount of $1,038—$720 for issue fee, $300 for publication and advance order for 6 copies.

Telephone inquires concerning this decision be directed to the undersigned in the Office of Patent Publication at 703-305-9250 x 154.

Anita Greene
Application Assistance Unit
Office of Data Management

UNITED STATES 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. 3

MAIL

JAN 2 9 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Gary S. Williams
PENNIE & EDMONDS LLP
3300 Hillview Avenue
Palo Alto, CA 94304

In re Application of:
Bernstein et al.
Application No. 10/187,537
Filed: July 1, 2002
For: METHOD AND SYSTEM FOR OPTIMIZED PERSISTENT MESSAGING

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed December 18, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed December 18, 2003 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

JM Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Mr. Thomas Hasler
mBlox Incorporated
485 East Evelyn Avenue
Sunnyvale, CA 94086

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 7

DONALD W. MEEKER
PATENT AGENT
924 EAST OCEAN FRONT, #E
NEWPORT BEACH, CA 92661

COPY MAILED

OCT 20 2004

OFFICE OF PETITIONS

In re Application of	:	
Cox, Alan D.	:	
Application No. 10/187,539	:	ON PETITION
Filed: July 1, 2002	:	
Attorney Docket No. COX	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 25, 2004, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the non-final Office action mailed July 9, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on October 10, 2003. A Notice of Abandonment was mailed February 10, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The file is now being forwarded to Technology Center 3600 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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MAIL

JAN 25 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Haynes and boone, LLP
1000 Louisiana
Suite 4300
Houston, TX 77002

In re application of:
Anthony Alardin
Application No. 10/187,542
Filed: July 2, 2002
For: VIDEO SURVEILLANCE SYSTEM

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record and change of address filed on July 29, 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 satisfied the requirements for successfully requesting withdrawal. Accordingly, the request is **GRANTED.**

All of the attorneys/agents of record listed in the Request are withdrawn.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

cc: Anthony Alardin
Alardin Development Corporation
2220 Airport Freeway #440-241
Bedford, Texas 76022

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/187,573	07/02/2002	3745	870	S004-4759	4	8	2

CONFIRMATION NO. 9515

ADAMS & WILKS
31st Floor
50 Broadway
New York, NY 10004

CORRECTED FILING RECEIPT

OC000000011635431

Date Mailed: 01/07/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Yasushi Maejima, Narashino-shi, JAPAN;
Yoshiyuki Sakaguchi, Narashino-shi, JAPAN;

Domestic Priority data as claimed by applicant

Foreign Applications

JAPAN 2001-204496 07/05/2001

If Required, Foreign Filing License Granted: 09/13/2002

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

VACUUM PUMP

Preliminary Class

415

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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HOFFMANN-LA ROCHE INC.
PATENT LAW DEPARTMENT
340 KINGSLAND STREET
NUTLEY, NJ 07110

COPY MAILED

APR 0 7 2005

OFFICE OF PETITIONS

In re Application of	:	
Hoffman et al.	:	
Application No. 10/187,587	:	ON PETITION
Filed: July 2, 2002	:	
Attorney Docket No. 20931 US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 12, 2004, to revive the above-identified application.

The petition is **GRANTED.**

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

This matter will be referred to Technology Center 1600 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

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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/187,591	07/01/2002	1648	740	P3430R1C240	615	13	2

CONFIRMATION NO. 5799

CORRECTED FILING RECEIPT

OC000000020194310

09157
GENENTECH, INC.
1 DNA WAY
SOUTH SAN FRANCISCO, CA 94080

Date Mailed: 08/25/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Kevin P. Baker, Darnestown, MD;
Jian Chen, Princeton, NJ;
Luc Desnoyers, San Francisco, CA;
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Victoria Smith, Burlingame, CA;
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William I. Wood, Hillsborough, CA;
Zemin Zhang, Foster City, CA;

Assignment For Published Patent Application

Genentech, Inc.

Power of Attorney: The patent practitioners associated with Customer Number **09157**.

Domestic Priority data as claimed by applicant

This application is a CON of 10/052,586 01/15/2002 ABN
which claims benefit of 60/059,263 09/18/1997
and claims benefit of 60/059,266 09/18/1997
and claims benefit of 60/062,250 10/17/1997
and claims benefit of 60/063,120 10/24/1997
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and claims benefit of 60/189,320 03/14/2000
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claims benefit of 60/196,187 04/11/2000
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and is a CON of 09/105,413 06/26/1998 ABN
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and is a CON of 09/747,259 12/20/2000 PAT 6,569,645
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and is a CON of 09/866,028 05/25/2001 PAT 6,642,360
and is a CON of 09/874,503 06/05/2001 ABN
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Foreign Applications

UNITED STATES OF AMERICA PCT/US98/19330 09/16/1998
UNITED STATES OF AMERICA PCT/US98/21141 10/07/1998
UNITED STATES OF AMERICA PCT/US98/25108 12/01/1998
UNITED STATES OF AMERICA PCT/US99/05028 03/08/1999
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UNITED STATES OF AMERICA PCT/US99/28551 12/02/1999
UNITED STATES OF AMERICA PCT/US99/31274 12/30/1999
UNITED STATES OF AMERICA PCT/US00/00219 01/05/2000
UNITED STATES OF AMERICA PCT/US00/04341 02/18/2000
UNITED STATES OF AMERICA PCT/US00/04342 02/18/2000
UNITED STATES OF AMERICA PCT/US00/04414 02/22/2000
UNITED STATES OF AMERICA PCT/US00/05004 02/24/2000
UNITED STATES OF AMERICA PCT/US00/05601 03/01/2000
UNITED STATES OF AMERICA PCT/US00/05841 03/02/2000
UNITED STATES OF AMERICA PCT/US00/06884 03/15/2000
UNITED STATES OF AMERICA PCT/US00/08439 03/30/2000

Projected Publication Date: To Be Determined - pending completion of Security Review

Non-Publication Request: No

Early Publication Request: No

Title

Secreted and transmembrane polypeptides and nucleic acids encoding the same

Preliminary Class

530

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

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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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SOUTH SAN FRANCISCO, CA 94080

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OFFICE OF PETITIONS

In re Application of :
Kevin P. Baker, et. al. :
Application No. 10/187,591 : ON PETITION
Filed: July 1, 2002 :
Attorney Docket No. P3430R1C240 :

This is a decision on the petition under 37 CFR 1.137(b), filed on October 9, 2007, to revive the above-identified application. The delay in responding is regretted.

The application became abandoned for failure to file a reply to the final Office action mailed on November 14, 2006. A Notice of Abandonment was mailed August 17, 2007.

The instant petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Panpan Gao 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 on whose behalf he/she acts. If Petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an acceptable amendment; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED.**

This application file is being referred to Technology Center Art Unit 1648, for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Panpan Gao
Heller Ehrman, LLP
275 Middlefield Road
Menlo Park, CA 94025

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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JUN 0 1 2009

OFFICE OF PETITIONS

GOODWIN PROCTER LLP
135 COMMONWEALTH DRIVE
MENLO PARK CA 94025

In re Application of :
Baker, et al. :
Application No. 10/187,595 : ON PETITION
Filed: July 1, 2002 :
Attorney Docket No. 39780-3430 :
R1C261

This is a decision on the "REQUEST TO WITHDRAW THE HOLDING OF ABANDONMENT", filed December 4, 2007, which is being treated as a petition under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **DISMISSED**.

The above-identified application became abandoned for failure to timely file a reply in response to the Notice of Allowance mailed June 27, 2007. 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 September 28, 2007. A Notice of Abandonment was mailed on October 23, 2007.

Petitioner states that he filed a Revocation and Power of Attorney and Change of Address on July 1, 2004. A review of the petition reveals that petitioner filed one Revocation and Power of Attorney and Change of Address for a variety of applications on July 1, 2004. The accompanying transmittal form did not direct the correspondence to the instant application, or any application, for that matter. 37 CFR 1.4(b) states:

> Since each file must be complete in itself, a separate copy of every paper to be filed in a patent, patent file, or other proceeding must be furnished for each file to which the paper pertains, even though the contents of the papers filed in two or more files may be identical.

The Office will only accept "global" changes of correspondence address to those addresses and practitioners associated with a Customer Number. In addition, such requests should be submitted electronically via a computer readable diskette, and must be submitted in the manner set forth in the Notice entitled "Extension of the Payor Number Practice (through "Customer Numbers") to Matters Involving Pending Patent Applications", published in the Federal Register at 61 FR 54622, 64623-24 (October 21, 1996), and in the Official Gazette at 1191 O.G. 187, 188-89 (October 29, 1996). Such electronic requests are not permitted to change the power of attorney in an application. See MPEP 403. Here, petitioner did not submit an appropriate electronic request in accordance with the Notice set forth above.

Consideration of the petition to revive under 37 CFR 1.137(b), filed May 15, 2009, will follow in a separate decision.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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GOODWIN PROCTER LLP
135 COMMONWEALTH DRIVE
MENLO PARK CA 94025

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JUN 0 1 2009

OFFICE OF PETITIONS

In re Application of	:	
Baker, et al.	:	
Application No. 10/187,595	:	ON PETITION
Filed: July 1, 2002	:	
Attorney Docket No. 39780-3430 R1C261	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed May 15, 2009.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a reply in response to the Notice of Allowance mailed June 27, 2007. 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 September 28, 2007. A Notice of Abandonment was mailed on October 23, 2007. Applicants filed a petition to withdraw the holding of abandonment on December 4, 2007. That petition was dismissed in a decision mailed simultaneously with this decision.

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 fee.

The application is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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DEC 0 8 2009

OFFICE OF PETITIONS

In re Patent No. 7,563,867 :
Issued: July 21, 2009 :
Application No. 10/187,595 : PATENT TERM ADJUSTMENT
Filed: July 1, 2002 :
Dkt. No GNE-3430R1C261 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed September 17, 2009. Patentee requests correction of the patent term adjustment from 271 days to 582 days. Patentee requests this correction on the sole basis that the Office took in excess of three years to issue the above-referenced patent. This matter is being properly treated under 37 CFR 1.705(d).

The application for patent term adjustment (PTA) under 37 CFR 1.705(d) is **DISMISSED**.

The above-identified application matured into U.S. Pat. No. 7,563,867 on July 21, 2009. The patent issued with a patent term adjustment of 271 days. The instant application for patent term adjustment was timely filed in accordance with 37 CFR 1.705(d). Patentee argues that in view of Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008), the patent is entitled to an adjustment of 582 days (1,109 days pursuant to 35 USC 154(b)(1)(A) *plus* 311 days pursuant to 35 USC 154(b)(1)(B) *less* applicant delay of 838 days).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay.

The Office asserts that as of the filing of the request for continued examination (RCE) on May 8, 2006, the application was pending three years and 310 days after its filing date (July 2, 2005 to May 7, 2006). The Office agrees that at the time of filing of the RCE, certain action was not taken within the specified time frame, and thus, the entry of a period of adjustment of 568 days is correct. At issue is whether patentees should accrue 310 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 568 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 310 days of delay in issuing the patent overlaps with the 568 days of examination delay under 37 CFR 1.702(a)(1). Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> To the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f)*[1] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in

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[1] Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the application filing date under 35 U.S.C. 111(a), July 1, 2002, and ending on May 7, 2006, the day before the date the RCE was filed on May 8, 2006.

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 568 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the filing of the RCE. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 310 days of patent term adjustment accrued at the time of submission of the RCE for Office issuance of the patent more than three years after the application filing date.

The 310 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 568 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 310 days and the 568 days is neither permitted nor warranted given that 568 days is the actual number of days issuance of the patent was delayed at the time of submission of the RCE.

Accordingly, at issuance, the Office properly entered 271 days of patent term adjustment, having considered the 310 days of Office delay under the three-year pendency provision in conjunction with the 568 days of delay under 37 CFR 1.702(a)(1) that had accrued at the time of filing of the RCE as well as the 541 days of delay under 37 CFR 1.702(a)(4) that occurred subsequent to the filing of the RCE, reduced 838 days for applicant delay.

In view thereof, no adjustment to the patent term will be made.

Receipt is acknowledged of the required patent term adjustment fee of $200.00.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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136 SOUTH MAIN STREET
SUITE 700
SALT LAKE CITY, UT 84101

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DEC 19 2002

OFFICE OF PETITIONS

In re Application of
Clark Wellard and Paul Petersen
Application No. 10/187,637
Filed: July 1, 2002
Title: APPARATUS FOR ICE FISHING

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.47(a)

This is in response to the "Petition Under 37 CFR 1.47(a)," filed November 13, 2002

The petition is **granted**.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

The file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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PAUL PETERSEN
VSM MARKETING
3200 S. YELLOWSTONE HWY
IDAHO FALLS, ID 83402

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DEC 19 2002

OFFICE OF PETITIONS

In re Application of
Clark Wellard and Paul Petersen
Application No. 10/187,637
Filed: July 1, 2002
Title: APPARATUS FOR ICE FISHING

Dear PAUL PETERSEN:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Edward Tannouse at (703) 306-9200. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1(800) 972-6382 (outside the Washington D.C. area).

for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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JUN 22 2009

OFFICE OF PETITIONS

In re Application of :
Batsleer, et al. : DECISION ON PETITION
Application No. 10/187,644 :
Filed: 3 July, 2002 :
Attorney Docket No. Q70548 :

This is in response to the petition filed on 22 September, 2008, under 37 C.F.R. §1.131, et seq. and properly considered in the vein of a request pursuant to 37 C.F.R. §1.47(a).

The petition under 37 C.F.R. §1.131, et seq. and properly considered in the vein of a request pursuant to 37 C.F.R. §1.47(a) is **DISMISSED**.

Petitioner is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.131, et seq. and properly considered in the vein of a request pursuant to 37 C.F.R. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 C.F.R. §1.136(a).

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

A grantable petition under 37 C.F.R. §1.131, et seq. and properly considered in the vein of a request pursuant to 37 C.F.R. §1.47(a) requires: (1) petition and fee; (2) 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: description, claims and drawings); (3) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; and (4) a statement of the last known address of the non-signing inventor(s)—with a showing of diligence in the effort to ascertain the validity of the address set forth as the reasonably believed to be last known/current/valid address.

Petitioner does not seem to have worked through the requirements of the petition, as set forth above, in satisfaction of those requirements. (*See* MPEP §409.03, and §409.03(a), et seq.

Petitioners always are reminded that, as to 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: description, claims and drawings): the applicable statute (35 U.S.C.§ 116) requires that a "diligent effort" have been expended in attempting to find or reach the non-signing inventor. *See* MPEP §409.03, and §409.03(a) and (e): "a *bona fide* attempt.")

Petitioner has failed to provide the requirements under the regulation, including: 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: description, claims and drawings), supported by a statement of the last known address of the non-signing inventor(s)—with a showing of diligence in the effort to ascertain the validity of the address set forth as the reasonably believed to be last known/current/valid address.

These matters must be clarified on any renewed petition.

BACKGROUND

The record indicates:

The instant application was filed on 3 July, 2002.

On 22 September, 2008, Petitioner Diallo T. Crenshaw (Reg. No. 52,778) (Petitioner) filed, *inter alia*, (with an amendment signed by him) a two-page petition—however, Petitioner failed to sign the petition, and instead placed the petition over the signature of one apparently not registered to practice before the Office. Moreover, while the petition was submitted with some supporting documentation, that was little more than a brief statement by a person identified only as Regine Kooke and no description in the statement as to the person's role in the matter of the application. Petitioner provided a copy of the declaration by signing co-inventors Batsleer, Chantrain and Vermeulen on behalf of themselves and non-signing co-inventor Koen Handekyn. However, Petitioner provided absolutely no showing of any effort to satisfy the requirements under the regulation, including a proper showing/evidence that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification: description, claims and drawings); and a statement of the last known address of the non-signing inventor(s)—with a showing of diligence in the effort to ascertain the validity of the address set forth as the reasonably believed to be last known/current/valid address.

Thus, Petitioner does not seemed to have worked through the requirements of the petition, as set forth above, in satisfaction of those requirements. (*See* MPEP §409.03, and §409.03(a), et seq. Petitioners always are reminded that, as to 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: description, claims and drawings): the applicable statute (35 U.S.C.§ 116) requires that a "diligent effort" have been expended in attempting to find or reach the non-signing inventor. *See* MPEP §409.03, and §409.03(a) and (e): "a *bona fide* attempt.")

Further, Petitioners always are reminded that for transmission by Email of any document to be accepted by the Office, written acknowledgment of receipt and readability will be required.

As set forth above, any renewed petition **must** clarify these items.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

The instant petition under 37 C.F.R. §1.47(a) is **dismissed**.

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:
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Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX:
(571) 273-8300
ATTN: Office of Petitions

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[2] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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OFFICE OF PETITIONS

In re Application of :
Frans Eduard Janssens et al :
Application No. 10/187,665 : DECISION GRANTING PETITION
Filed: July 2, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. JAB-1740 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 10, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 25, 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 July 26, 2005. A Notice of Abandonment was mailed on November 2, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply (amendment), (2) the $1,500 petition fee, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of April 25, 2005 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 1621 for appropriate action in the normal course of business on the reply received July 10, 2006.

Frances Hicks
Petitions Examiner
Office of Petitions

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Paper No. 16

CONNOLLY BOVE LODGE & HUTZ, LLP
P.O. BOX 2207
WILMINGTON, DE 19899

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MAY 2 0 2004

OFFICE OF PETITIONS

In re Application of :
Haack et al. :
Application No. 10/187,702 : ON PETITION
Filed: July 2, 2002 :
Attorney Docket No. 05587-00337-US :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 10, 2004, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply within three months to the final Office action mailed October 20, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on January 21, 2004. A Notice of Abandonment was mailed on May 4, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The Notice of Appeal filed May 10, 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 May 10, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

The file is now being forwarded to Technology Center 1700 for further processing.

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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2519 ST. HEATHER WAY
ORLANDO, FL 32806-5073

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OFFICE OF PETITIONS

In re Application of
Michael C. Finley
Application No. 10/187,728
Filed: July 2, 2002
Attorney Docket No. MCF1

ON PETITION

This is a decision in response to the petition, filed August 18, 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 an Office action mailed December 28, 2004. A Notice of Abandonment was mailed on August 9, 2005. On August 18, 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 an amendment; (2) the petition fee of $750.00; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 2675 for consideration of the amendment filed August 18, 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

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	TOT CLMS	IND CLMS
10/187,747	07/01/2002	1648	740	P3430R1C245	13	2

CONFIRMATION NO. 9181

30313
KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 MAIN STREET
IRVINE, CA 92614

CORRECTED FILING RECEIPT

OC000000023284675

Date Mailed: 04/06/2007

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Kevin P. Baker, Darnestown, MD;
Jian Chen, Princeton, NJ;
Luc Desnoyers, San Francisco, CA;
Audrey Goddard, San Francisco, CA;
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William I. Wood, Hillsborough, CA;
Zemin Zhang, Foster City, CA;

Assignment For Published Patent Application

Genentech, Inc.

Power of Attorney: The patent practitioners associated with Customer Number **09157**.

Domestic Priority data as claimed by applicant

This application is a CON of 10/052,586 01/15/2002 ABN
which claims benefit of 60/059,263 09/18/1997
and claims benefit of 60/059,266 09/18/1997
and claims benefit of 60/062,250 10/17/1997
and claims benefit of 60/063,120 10/24/1997
and claims benefit of 60/063,121 10/24/1997
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and is a CON of 09/105,413 06/26/1998 ABN
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and is a CON of 09/941,992 08/28/2001
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Foreign Applications

UNITED STATES OF AMERICA PCT/US98/19330 09/16/1998
UNITED STATES OF AMERICA PCT/US98/21141 10/07/1998
UNITED STATES OF AMERICA PCT/US98/25108 12/01/1998
UNITED STATES OF AMERICA PCT/US99/05028 03/08/1999
UNITED STATES OF AMERICA PCT/US99/10733 05/14/1999
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UNITED STATES OF AMERICA PCT/US00/05841 03/02/2000
UNITED STATES OF AMERICA PCT/US00/06884 03/15/2000
UNITED STATES OF AMERICA PCT/US00/08439 03/30/2000

If Required, Foreign Filing License Granted: 09/18/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/187,747

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

PRO1337 POLYPEPTIDES

Preliminary Class

530

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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.

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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).

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Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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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.

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NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08-06-08

TO SPE OF : ART UNIT 1648

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/187747** Patent No.: **7291707**

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

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_____

SPE: _____ Art Unit: 1646

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275 MIDDLEFIELD ROAD
MENLO PARK, CA 94025-3506

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OFFICE OF PETITIONS

In re Application of

Baker, et al.

Application No. 10/187,757

Filed: July 2, 2002

Attorney Docket No. P3430R1C242

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a), filed January 24, 2006, to withdraw the holding of abandonment.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on August 17, 2005, after it was believed that no response was received to the non-final Office action mailed May 16, 2005. The non-final Office action allowed a period for reply of three months from its mailing date Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment was mailed on January 13, 2006, indicating that a reply to the non-final Office action was not received.

A review of the record did not reveal a response to the non-final Office action, however; an Office date-stamped postcard whereby the Office acknowledged receiving an amendment, and request for an extension of time on November 16, 2005 accompanies the instant petition. Based on the aforementioned, it appears that the application was improperly held abandoned as a response was received prior to expiration of the period for reply. The holding of abandonment is withdrawn, accordingly.

No petition fee is due.

The application file is being forwarded Technology Center 1600, GAU 1648, for further processing.

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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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/187,757	07/01/2002	1648	1340	39780-3430R1C242	13	2

CONFIRMATION NO. 5922

25213
HELLER EHRMAN LLP
275 MIDDLEFIELD ROAD
MENLO PARK, CA 94025-3506

CORRECTED FILING RECEIPT

OC000000023212131

Date Mailed: 04/02/2007

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

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Assignment For Published Patent Application

Genentech, Inc.

Power of Attorney:

Elizabeth Barnes--35059

Domestic Priority data as claimed by applicant

This application is a CON of 10/052,586 01/15/2002 ABN
which claims benefit of 60/059,263 09/18/1997
and claims benefit of 60/059,266 09/18/1997
and claims benefit of 60/062,250 10/17/1997
and claims benefit of 60/063,120 10/24/1997
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and is a CON of 09/380,138 08/25/1999 ABN
and is a CON of 09/380,139 08/25/1999 ABN
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and is a CON of 09/403,297 10/18/1999 ABN
and is a CON of 09/423,844 11/12/1999 ABN
and is a CON of 09/644,848 08/22/2000 ABN
and is a CON of 09/664,610 09/18/2000 ABN
and is a CON of 09/665,350 09/18/2000 ABN
and is a CON of 09/709,238 11/08/2000 ABN
and is a CON of 09/747,259 12/20/2000 PAT 6,569,645
and is a CON of 09/816,744 03/22/2001 PAT 6,579,520
and is a CON of 09/854,208 05/10/2001
and is a CON of 09/854,280 05/10/2001 PAT 7,115,398
and is a CON of 09/866,028 05/25/2001 PAT 6,642,360
and is a CON of 09/874,503 06/05/2001 ABN
and is a CON of 09/908,827 07/18/2001 ABN
and is a CON of 09/918,585 07/30/2001 ABN
and is a CON of 09/924,419 08/06/2001 ABN
and is a CON of 09/929,404 08/13/2001 ABN
and is a CON of 09/931,836 08/16/2001
and is a CON of 09/941,992 08/28/2001
and is a CON of 09/946,374 09/04/2001 ABN

Foreign Applications

UNITED STATES OF AMERICA PCT/US98/19330 09/16/1998
UNITED STATES OF AMERICA PCT/US98/21141 10/07/1998
UNITED STATES OF AMERICA PCT/US98/25108 12/01/1998
UNITED STATES OF AMERICA PCT/US99/05028 03/08/1999
UNITED STATES OF AMERICA PCT/US99/10733 05/14/1999
UNITED STATES OF AMERICA PCT/US99/12252 06/02/1999
UNITED STATES OF AMERICA PCT/US99/20111 09/01/1999
UNITED STATES OF AMERICA PCT/US99/21090 09/15/1999
UNITED STATES OF AMERICA PCT/US99/28301 12/01/1999
UNITED STATES OF AMERICA PCT/US99/28551 12/02/1999
UNITED STATES OF AMERICA PCT/US99/31274 12/30/1999
UNITED STATES OF AMERICA PCT/US00/00219 01/05/2000
UNITED STATES OF AMERICA PCT/US00/04341 02/18/2000
UNITED STATES OF AMERICA PCT/US00/04342 02/18/2000
UNITED STATES OF AMERICA PCT/US00/04414 02/22/2000
UNITED STATES OF AMERICA PCT/US00/05004 02/24/2000
UNITED STATES OF AMERICA PCT/US00/05601 03/01/2000
UNITED STATES OF AMERICA PCT/US00/05841 03/02/2000
UNITED STATES OF AMERICA PCT/US00/06884 03/15/2000

UNITED STATES OF AMERICA PCT/US00/08439 03/30/2000

If Required, Foreign Filing License Granted: 09/18/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/187,757

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

PRO4334 POLYPEPTIDES

Preliminary Class

530

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. None

BELL, BOYD, & LLOYD LLC
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CHICAGO IL 60690-1135

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MAR 16 2006

OFFICE OF PETITIONS

In re Application of :
Ernst-Ludwig Winnacker et al. :
Application No. 10/187,783 : DECISION ON PETITION
Filed: July 3, 2002 : UNDER 37 C.F.R. §1.181
Attorney Docket Number: 43594 :
Title: NUCLEIC ACID MOLECULES :
CAPABLE OF DISTINGUISHING THE :
ISOFORMS PRPC AND PRPSC OF :
PRION PROTEINS AND PROCESSES :
FOR THEIR PRODUCTION :

This is a decision on the petition filed on December 19, 2005, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed May 17,2005, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on August 18, 2005. A notice of abandonment was mailed on November 28, 2005.

With the present petition, Petitioner has asserted that a response to this communication was submitted on November 17, 2005. Petitioner has submitted a copy of this submission, and it is noted that it contains a certificate of facsimile transmission dated November 17, 2005, along with a request for a three-month extension of time. Petitioner has further provided a postcard receipt which properly itemizes said amendment and contains a date-stamp of November 25, 2005.

The electronic file has been reviewed, and the same contains the above-mentioned amendment. A review of the Office records

confirms that a three-month extension of time was charged to Petitioner's Deposit Account on November 23, 2005.

Petitioner has requested that the holding of abandonment in the above-identified application be withdrawn. It is clear that a response was timely submitted. Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that petitioner has met his burden of establishing that a submission was timely submitted.

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**

Technology Center 1600 will be notified of this decision.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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SCINTO
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NEW YORK NY 10112

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OFFICE OF PETITIONS

In re Application of:	:	DECISION ON REQUEST
Atsushi Ogata	:	FOR REVIEW OF
Application No. 10/187792	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 07/03/2002	:	
Pat. Num./Pub. Num: 7,212,317	:	
Issue Date: 05/01/2007	:	
Atty Docket No. 02910.000022	:	

This letter is in response to the "Comments on Determination of Patent Term Adjustment," filed June 25, 2007. Pursuant to patentee's duty of good faith and candor to the Office, patentee requests confirmation of the issuance of a patent term adjustment of 847 days.

The request for review of the determination of patent term adjustment (PTA) is **granted**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **eight-hundred eleven (811)** days.

On May 1, 2007, the above-identified application matured into U.S. Patent No. 7,212,317, with a revised patent term adjustment of 847 days. On June 25, 2007, patentee submitted the instant comment. Patentee states no basis for the request for review of the patent term adjustment.

Nonetheless, a review of the application history confirms that an incorrect number of days were determined for Applicant delay. A review of the application history reveals that the reductions of 24 and 4 days for applicant delay in filing amendments under § 1.312 on January 2, 2007, and January 26, 2007 respectively, after the mailing of a notice of allowance on December 1, 2006, are incorrect. 37 CFR 1.704(c) provides, in pertinent part, that:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

(10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:

(i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;

or

(ii) Four months;

Here, Patentee filed an amendment under § 1.312 on January 2, 2007, which the Examiner responded to on January 29, 2007[1]. As such, the Applicant delay was 28 days for filing the 312 amendment on January 2, 2007. Patentee also filed a supplemental amendment under § 1.312 on January 26, 2007, which the Examiner responded to on March 6, 2007. Considering overlap, the Applicant delay was 36 days (40 days – 4 days overlap) for filing the 312 amendment under § 1.312 on January 26, 2007. Accordingly, the Applicant delay was 5 + 28 + 36 = 69 days.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **eight-hundred eleven (811) days** (880 days of PTO delay, reduced by 69 days of applicant delay), subject to any terminal disclaimer.

Given the basis for granting this petition, no fee has been charged. The Office thanks applicants for their candor and good faith in bringing this matter to the attention of the Office.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **EIGHT HUNDRED ELEVEN (811)** days.

Telephone inquiries specific to this matter should be directed to Attorney Derek L. Woods, at (571) 272-3232.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

[1] An interview was conducted on January 26, 2007, the contents of which were included in the Office communication mailed January 29, 2007. On January 26, 2007, Patentee filed the supplemental amendment electronically.

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,212,317 B2

DATED : May 1, 2007

INVENTOR(S) : Atsushi Ogata

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 (847) days

Delete the phrase "by 847 days" and insert – by 811 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09-03-08

TO SPE OF : ART UNIT 2625

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/187792 Patent No.: 7212317

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES: X

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Certificates of Correction Branch

703-308-9390 ext. 123

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: The changes are appropriate.

C.Lee

/Edward L. Coles/ — **SPE**

2625 — **Art Unit**

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Pet. Dec.

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Mailed: 11/23/04

Paper No.

In re application of
Richard Moore
Serial No. 10/187,793
Filed: July 03, 2002
For: STABILIZED BORAX BASED FIRE RETARDANT SYSTEMS

DECISION ON PETITION

This is a decision on the PETITION TO WITHDRAW HOLDING OF ABANDONMENT, filed August 23, 2004, for failure to pay the required Issue Fee, in response to the Notice of Allowance dated July 29, 2004. Applicants assert that the issue fee was paid in a timely manner.

DECISION

Since petitioner asserts that the issue fee was timely paid, the request is accepted as a petition under 37 C.F.R. 1.181 (no fee). A review of the petitioner's evidence provided with the instant petition indicates that the request has merit.

Applicants contend that the issue fee was paid on May 18, 2004. Applicants have submitted as evidence, a copy of the Fax Transmittal Form containing a report that such was successfully transmitted on May 18, 2004 and an Patent and Trademark Office Auto-reply facsimile Transmission, acknowledging receipt by the USPTO on May 18, 2004.

Therefore, the Notice of Abandonment dated July 29, 2004 is hereby withdrawn.

The Petition is **GRANTED.**

The case will be delivered to the LIE and returned to pending status. Additionally, the Issue Fee will be charged for the present case. After such is completed, the case will be returned to issue branch for prompt processing of the patent.

JMStone

Jacqueline Stone, Director
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Chemical and Materials Engineering

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AUG 25 2006

OFFICE OF PETITIONS

SUGHRUIE MION, PLLC
2100 PENNSYLVANIA AVENUE, NW
WASHINGTON DC 200037-3213

In re Patent No. 6,901,100 :
Mukaiyama et. : DECISION ON REQUEST
Issue Date: 31 May, 2005 : FOR RECONSIDERATION OF
Application No. 10/187,798 : PATENT TERM ADJUSTMENT
Filed: 3 July, 2002 : and
Atty Docket No. Q69297 : NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)" filed 28 July, 2005. Patentees request that the Patent Term Adjustment for the above-identified patent be set at 155 days.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of one hundred fifty-five (155) days.

On 31 May, 2005, the above-identified application matured into U.S. Patent No. 6,901,100. The instant request for reconsideration filed 28 July, 2005, was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 53 days. The patent term adjustment of 182 days for PTO delay was reduced by 102 days for the filing of a "Request for Refund" on 4 June, 2004, and 120 days for the filing of a "Request for Refund" on 14 September, 2004, both filed subsequent to the Notice of Allowance mailed on 3 May, 2004.

Patentees assert that a "Request for Refund" was indeed filed on 4 June, 2004, but that Office records improperly indicate the

receipt of a second "Request for Refund" on 14 September, 2004. In essence, Patentees' assert that the reduction of 102 days is incorrect, as only one Request for Refund was filed, and that patentees should only be charged with a 120 day reduction for the letter filed on 4 June, 2004. Patentees aver that the entry of a second "Request for Refund" on 14 September, 2004, is in error, as no such paper was filed on 14 September, 2004, and that therefore no additional reduction is warranted.

Patentees' contention is well taken. A review of the Official file reveals that no request for refund was filed on 14 September, 2004. Rather, the indication that a second "Request for Refund" was filed on 14 September, 2004, appears to be an erroneous entry in Office records. The patent term adjustment is properly reduced by 120 days (not 102 days) for the filing of the Request for Refund on 4 June, 2004.

In view thereof, the patent term adjustment indicated on the patent should be one hundred fifty-five (155) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by ONE HUNDRED FIFTY-FIVE (155) days.

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

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RESTON VA 20191

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OFFICE OF PETITIONS

In re Patent No. 7,286,504 :
Issued: October 23, 2007 :
Application No. 10/187,800 : ON PETITION
Filed: July 3, 2002 :
Attorney Docket Number: 01-310 :

This is a decision on the petition, filed December 10, 2007, to correct the assignee's name on the front of the Patent which is being treated as a request under 37 CFR 3.81(b)[1]

The petition is **GRANTED**.

Petitioner states that the name of the second assignee was incorrectly identified on the Fee(s) Transmittal form PTOL-85(b) at the time the issue fee was paid. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct name of the second assignee on the front page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that NATIONAL INSTITUTE OF INFORMATION AND COMMUNICATIONS TECHNOLOGY is the correct name of the

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[1] *See* Official Gazette of June 22, 2004

second assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to issue.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3212. Any questions concerning the certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Paper No. 10

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TORONTO, ONTARIO, M2N 5W9
CANADA

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OCT 2 2 2004

OFFICE OF PETITIONS

In re Application of	:	
Ernest R. Bodnar	:	
Application No. 10/187,811	:	ON PETITION
Filed: July 3, 2002	:	
Attorney Docket No. 1120U105	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 18, 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 August 27, 2003. Accordingly, this application became abandoned on November 28, 2003. A Notice of Abandonment was mailed on April 14, 2004.

Please note, the statement of unintentional delay presented in the petition does not comply with the current rule. Effective December 1, 1997, 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" be submitted. However, the statement presented will be accepted and construed as meaning that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

The file is being forwarded to Technology Center 3700, for review of the amendment submitted August 18, 2004.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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SAN FRANCISCO, CA 94111-3834

Mail Date: 04/26/2010

Applicant	: Zhenjiang Cui	: DECISION ON REQUEST FOR
Patent Number	: 7588036	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/187,817	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/01/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **684** 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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San Diego, CA 92101

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OFFICE OF PETITIONS

In re Application of :
Dershem et al :
Application No. 09/580,026 : DECISION GRANTING
Filed: May 26, 2000 :STATUS UNDER 37 CFR 1.47(a)
Attorney Docket No: QUANT1190-2 :
:

This is in response to the petition filed by facsimile transmission on October 12, 2001, requesting reconsideration of a decision mailed August 13, 2001, which refused to accord 37 CFR 1.47(a) status to the above-identified application.

The petition is granted.

Petitioner has shown that the nonsigning inventors (Dennis B. Patterson and Jose Osuna) have refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the nonsigning inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-8680.

This application is being forwarded to the Office of Initial Patent Examination Division for preexamination processing.

Frances Hicks
Petitions Examiner
Office of Petitions

Office of the Deputy Commissioner
for Patent Examination Policy

0103 308 0910 0144
OCT 0 7 2002

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Dennis B. Patt rson
36855 Clearwood Court
Palmdale, CA 93550

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OCT 1 8 2001

OFFICE OF PETITIONS

In re Application of
Stephen M. Dershem; Dennis B. Patterson; and Jose A. Osuna, Jr.
Application No. 09/580,026
Filed: May 26, 2000
For: THERMOSETTING RESIN COMPOSITIONS CONTAINING MALEIMIDE AND/OR VINYL COMPOUNDS

Dear Mr. Patterson:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-8680. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Foley & Lardner
402 W. Broadway, 23rd Floor
San Diego, CA 92101

OCT 0 7 2002
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UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Jose Osuna
2568 Orchard Heights Av nue
Albany, Oregon 97321

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OFFICE OF PETITIONS

In re Application of
Stephen M. Dershem; Dennis B. Patterson; and Jose A. Osuna, Jr.
Application No. 09/580,026
Filed: May 26, 2000
For: THERMOSETTING RESIN COMPOSITIONS CONTAINING MALEIMIDE AND/OR VINYL COMPOUNDS

Dear Mr. Osuna

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.

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Frances Hicks
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San Diego, CA 92101

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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NEW YORK 10112

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NOV 2 5 2002

OFFICE OF PETITIONS

In re Application of :
Stephen M. Dershem et al :
Application No. 10/187,838 : DECISION GRANTING
Filed: July 3, 2002 :STATUS UNDER 37 CFR 1.47(a)
Attorney Docket No: 02658.000600 :
:

This is in response to the communication filed October 7, 2002.

The communication received on October 7, 2002 in response to the Notice to File Missing Parts of Nonprovisional Application mailed July 31, 2002, is accompanied by a copy of the decision granting 37 CFR 1.47(a) status to the prior application. 37 CFR 1.63(d)(3) states:

> Where the executed oath or declaration of which a copy is submitted for a continuation or divisional application was originally filed in a prior application accorded status under § 1.47, the copy of the executed oath or declaration for such prior application must be accompanied by:
>
> (i) A copy of the decision granting a petition to accord § 1.47 status to the prior application, unless all inventors or legal representatives have filed an oath or declaration to join in an application accorded status under § 1.47 of which the continuation or divisional application claims a benefit under 35 U.S.C. 120, 121, or 365(c).

The application was not accompanied by a copy of the decision granting the petition under 37 CFR 1.47(a) in the prior application. In view of the communication received on October 7, 2002 submitting a copy of the decision granting 37 CFR 1.47(a) status in the prior application, the above-identified application and papers are now in compliance with 37 CFR 1.47(a). This application is hereby accorded rule 1.47(a) status. As provided in 37 CFR 1.47(c), no notice of this application's filing will be forwarded to the nonsigning

inventor nor will such notice be published in the Official Gazette[1] since notice regarding the filing of the prior application was given to the nonsigning inventor.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-8680.

This application is being returned to Technology Center AU 1711 for examination in due course.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] Note Federal Register, Vol. 65, No. 175; Friday, September 8, 2000.

OCT. 0 7 2002

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402 W. Broadway, 23rd Floor
San Diego, CA 92101

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OCT 1 8 2001

OFFICE OF PETITIONS

In re Application of	:
Dershem et al	:
Application No. 09/580,026	: DECISION GRANTING
Filed: May 26, 2000	:STATUS UNDER 37 CFR 1.47(a)
Attorney Docket No: QUANT1190-2	:
	:

This is in response to the petition filed by facsimile transmission on October 12, 2001, requesting reconsideration of a decision mailed August 13, 2001, which refused to accord 37 CFR 1.47(a) status to the above-identified application.

The petition is granted.

Petitioner has shown that the nonsigning inventors (Dennis B. Patterson and Jose Osuna) have refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the nonsigning inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-8680.

This application is being forwarded to the Office of Initial Patent Examination Division for preexamination processing.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

Office of the Deputy Commissioner
for Patent Examination Policy

703/308 6910
OCT 0 7 2002
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Dennis B. Patterson
36855 Clearwood Court
Palmdale, CA 93550

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OFFICE OF PETITIONS

In re Application of
Stephen M. Dershem; Dennis B. Patterson; and Jose A. Osuna, Jr.
Application No. 09/580,026
Filed: May 26, 2000
For: THERMOSETTING RESIN COMPOSITIONS CONTAINING MALEIMIDE AND/OR VINYL COMPOUNDS

Dear Mr. Patterson:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Foley & Lardner
402 W. Broadway, 23rd Floor
San Diego, CA 92101

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WASHINGTON, D.C. 20231
www.uspto.gov

Jose Osuna
2568 Orchard Heights Avenue
Albany, Oregon 97321

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OCT 1 8 2001

OFFICE OF PETITIONS

In re Application of
Stephen M. Dershem; Dennis B. Patterson; and Jose A. Osuna, Jr.
Application No. 09/580,026
Filed: May 26, 2000
For: THERMOSETTING RESIN COMPOSITIONS CONTAINING MALEIMIDE AND/OR VINYL COMPOUNDS

Dear Mr. Osuna

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Foley & Lardner
402 W. Broadway, 23rd Floor
San Diego, CA 92101

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)
6916856	2005-07-12	10187839	2002-07-03	02658.000500.

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2009-10-07
Name	Kendal M. Sheets	Registration Number	47077

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6916856
Issue Date: July 12,2005
Application No. 10187839
Filed: July 3,2002
Attorney Docket No. 02658.000500.

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed October 7,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 7,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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MAY 31 2005

OFFICE OF PETITIONS
ON PETITION

In re Application of :
Keiji Emoto et al :
Application No. 10/187,841 :
Filed: July 3, 2002 :
Attorney Docket No. 00862.022661 :

This is a decision on the petition, filed May 27, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 10, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2851 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

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HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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DEC 11 2006

OFFICE OF PETITIONS

In re Patent No. 7,038,759	:	DECISION ON REQUEST
Emoto et al.	:	FOR RECONSIDERATION OF
Issue Date: May 2, 2006	:	PATENT TERM ADJUSTMENT
Application No. 10/187,841	:	and
Filed: July 3, 2002	:	NOTICE OF INTENT TO ISSUE
Atty Docket No. 00862.022661	:	CERTIFICATE OF CORRECTION

This is a decision on the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d), filed July 3, 2006. Patentees request that the Office reconsider or recalculate the patent term adjustment for the above-identified patent from the 0 days, listed on the cover page to ninety-two (92) days and for issuance of a certificate of correction.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **ninety-two (92)** days.

On May 2, 2006, the application matured into U.S. Patent No. 7,038,759, with a revised patent term adjustment of 0 days. On Monday, July 3, 2006, patentees timely submitted this request for reconsideration of patent term adjustment (with required fee), requesting that the Patent Term Adjustment be corrected to 92 days. Patentees dispute the reduction of 120 days associated with the filing of a letter after the mailing of the notice of allowance requesting that a previously applied issue fee be applied.

Petitioners' arguments have been considered, and have been found persuasive. As stated in MPEP 2732:

> Certain papers filed after allowance are not considered to be a failure to engage in reasonable efforts to conclude processing or examination of an application. 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. Pat. Office 111 (June 26, 2001). The submission of the following papers after a "Notice of Allowance" is not considered a failure to engage in reasonable efforts to conclude processing or examination of an application: (1) Fee(s) Transmittal (PTOL-85B); (2) Power of Attorney; (3) Power to Inspect; (4) Change of Address; (5) Change of Status (small/not small entity status); (6) a response to the examiner's reasons for allowance or a request to correct an error or omission in the "Notice of Allowance" or "Notice of Allowability;" and (7) letters related to government interests (e.g., those between NASA and the Office).

The letter filed September 30, 2005, was a letter solely requesting that the Issue Fee payment previously paid be re-applied in response to the new Notice of Allowance and Fee(s) Due. No reduction is warranted for the filing of this paper.

It is noted that the Information Disclosure Statement (IDS) filed May 27, 2005 was filed with a statement tantamount to a § 1.704(d) statement. Patentees are reminded that in order to avoid a reduction pursuant to 37 CFR 1.704(c)(6), (8), (9) or (10), applicants must be accompanied by the exact statement in § 1.704(d) in the IDS (and be in compliance with §§1.97 and 1.98):

> each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement.

In view thereof, the patent should have issued with a patent term adjustment of ninety-two (92) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The fee is required and will not be waived.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by NINETY-TWO **(92)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Attachment: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,038,759 B2

DATED : May 2, 2006

INVENTOR(S) : Emoto et al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (0) days

Delete the phrase "by 0" and insert – by 92 days--

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COMMISSIONER FOR PATE
UNITED STATES PATENT AND TRADEMARK OFF
P.O. BOX 1
ALEXANDRIA, VA 22313-1
WWW.USPTO

MERCHANT & GOULD
P O BOX 2903
MINNEAPOLIS, MN 55402-0903

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DEC 2 2 2003

OFFICE OF PETITIONS

In re Application of :
Menachem Rafaelof et al :DECISION ON PETITION
Application No. 10/187,856 :UNDER 37 CFR 1.181
Filed: July 1, 2002 :
Atty Dkt No. STL10805/40176.80USU1 :

This is a decision on the petition filed August 21, 2003, which is being treated as a petition under 37 CFR 1.181 requesting a corrected Filing Receipt to correct the filing date of a prior-filed provisional application.

The petition is **dismissed.**

On August 27, 2002, petitioner filed a Request for Corrected Filing Receipt stating that the date of filing of the prior-filed provisional application was incorrect and that the correct filing date should be April 18, 2002. Along with the request, petitioner submitted a copy of the original Filing Receipt and a handwritten correction to the filing date.

The Office, on September 9, 2002, mailed a "Response to Request for Corrected Filing Receipt," stating that "The filing date of a parent application cannot be changed by this request. A petition to correct the filing date in the parent application is required."

Issuance of a corrected Filing Receipt would not be appropriate at this time since applicants did not correctly identify the provisional application to which priority is sought; i.e., provisional Application No. 60/347,079 was identified as opposed to the intended provisional application, Application No. 60/374,079, which is the application number appearing on the declaration submitted with the instant application. However, the Office will not grant a request for a corrected filing receipt to include a benefit claim unless the proper reference to the prior application is included in the first sentence of the specification or an ADS within the time period required by 37 CFR 1.78(a). *Note* MPEP 201.11.

37 CFR 1.78(a)(5)(i) states:

> 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** [emphasis supplied].

In view of the above and as applicants did not correctly provide the correct application number of the provisional application within the time period provided by 37 CFR 1.78(a)(5)(ii), the proper avenue of relief is now by way of a petition under 37 CFR 1.78(a)(6). A petition under 37 CFR 1.78(a)(6) must include:

> (i) the reference required by 35 U.S.C. 119(e) and paragraph (a)(5) of this section to the prior-filed provisional application, unless previously submitted;
>
> (ii) the surcharge set forth in § 1.17(t); and
>
> (iii) a statement that the entire delay between the date the claim was due under paragraph (a)(5)(i) of this section and the date the claim was filed was unintentional.

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:[1] 2011 South Clark Place
Crystal Plaza Two, Lobby
Room 1B03
Arlington, VA 22202

---

[1] Effective December 1, 2003, the Office of Petitions can no longer directly receive hand-carried correspondence. The centralized location for hand-carried correspondence is the Customer Window now located at the address given.

By FAX: [2] (703) 872-6906
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (703)305-8680.

This application is now before Technology Center AU 2834 for further examination.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[2] Effective December 1, 2003, the Office of Petitions can no longer directly receive facsimile transmissions of correspondence.

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FEB 13 2004

OFFICE OF PETITIONS

MERCHANT & GOULD P.C.
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

In re Application of
Menachem Rafaelof et al
Application No. 10/187,856
Filed: July 1, 2002
Attorney Docket No. STL10805/40176.80USU1

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(6), filed January 13, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of prior-filed provisional Application No. 60/374,079, filed April 18, 2002.

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 surcharge set forth in 37 CFR 1.17(t);

(2) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional; and

(3) the reference to the prior-filed provisional application supplied in an application data sheet (ADS)(37 CFR 1.76) or as an amendment in the first sentence of the specification following the title. *See* 35 U.S.C. 119(e) and 37 CFR 1.78(a)(5)(iii). The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on July 1, 2002, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/374,079, which was filed on April 18, 2002, for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Also, the reference to the prior-filed provisional application was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. §119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §119(e), the petition to accept an unintentionally delayed claim of benefit to prior-filed provisional Application No. 60/374,079 is granted.

The granting of the petition to accept the delayed benefit claim to the prior application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior application. In order for the instant application to be entitled to the benefit of the prior application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(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.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Karen Creasy at (703) 305-8859.

The application is being forwarded to Technology Center AU 2834 for processing the amendment submitted January 13, 2004 and for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/374,079, filed April 18, 2002.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MERCHANT & GOULD HLK
P O BOX 2903
MINNEAPOLIS, MN 55402-0903

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DEC 2 2 2003

OFFICE OF PETITIONS

In re Application of :
Menachem Rafaelof et al :DECISION ON PETITION
Application No. 10/187,856 :UNDER 37 CFR 1.181
Filed: July 1, 2002 :
Atty Dkt No. STL10805/40176.80USU1 :

This is a decision on the petition filed August 21, 2003, which is being treated as a petition under 37 CFR 1.181 requesting a corrected Filing Receipt to correct the filing date of a prior-filed provisional application.

The petition is **dismissed.**

On August 27, 2002, petitioner filed a Request for Corrected Filing Receipt stating that the date of filing of the prior-filed provisional application was incorrect and that the correct filing date should be April 18, 2002. Along with the request, petitioner submitted a copy of the original Filing Receipt and a handwritten correction to the filing date.

The Office, on September 9, 2002, mailed a "Response to Request for Corrected Filing Receipt," stating that "The filing date of a parent application cannot be changed by this request. A petition to correct the filing date in the parent application is required."

Issuance of a corrected Filing Receipt would not be appropriate at this time since applicants did not correctly identify the provisional application to which priority is sought; i.e., provisional Application No. 60/347,079 was identified as opposed to the intended provisional application, Application No. 60/374,079, which is the application number appearing on the declaration submitted with the instant application. However, the Office will not grant a request for a corrected filing receipt to include a benefit claim unless the proper reference to the prior application is included in the first sentence of the specification or an ADS within the time period required by 37 CFR 1.78(a). *Note* MPEP 201.11.

pl
DJ

37 CFR 1.78(a)(5)(i) states:

> 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** [emphasis supplied].

In view of the above and as applicants did not correctly provide the correct application number of the provisional application within the time period provided by 37 CFR 1.78(a)(5)(ii), the proper avenue of relief is now by way of a petition under 37 CFR 1.78(a)(6). A petition under 37 CFR 1.78(a)(6) must include:

> (i) the reference required by 35 U.S.C. 119(e) and paragraph (a)(5) of this section to the prior-filed provisional application, unless previously submitted;
>
> (ii) the surcharge set forth in § 1.17(t); and
>
> (iii) a statement that the entire delay between the date the claim was due under paragraph (a)(5)(i) of this section and the date the claim was filed was unintentional.

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:[1] 2011 South Clark Place
Crystal Plaza Two, Lobby
Room 1B03
Arlington, VA 22202

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[1] Effective December 1, 2003, the Office of Petitions can no longer directly receive hand-carried correspondence. The centralized location for hand-carried correspondence is the Customer Window now located at the address given.

By FAX: [2] (703) 872-6906
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (703)305-8680.

This application is now before Technology Center AU 2834 for further examination.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[2] Effective December 1, 2003, the Office of Petitions can no longer directly receive facsimile transmissions of correspondence.

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Paper No. 3

A. Shane Nichols, Esq.
KING & SPALDING
45th Floor
191 Peachtree Street, N.E.
Atlanta, GA 30303

MAILED

OCT 0 1 2002

Technology Center 2100

In re Application of: Christopher W. Anderson, et al.
Application No. 10/187,859
Filed: July 1, 2002
For: CONTENT DATA INDEXING

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed September 4, 2002.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

FOR

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

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TECHNOLOGY CENTER 3600

E. Bradley Gould
WINSTON & STRAWN LLP
1700 K Street, N.W.
Washington, DC 20006

In re Application of
Peter W. Carhuff
Application No. 10/187,941
Filed: June 28, 2002

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

For: HOSE FITMENT FOR DISPOSABLE FOOD CONTAINER

This is a decision on the Petition to Withdraw the Holding of Abandonment filed in the United States Patent and Trademark Office on July 30, 2004 and August 15, 2005.

The petition is **GRANTED** in view of the following evidence of timely filing:

☒ Postcard receipt being dated January 27, 2004.

☐ USPTO return facsimile receipt dated _____.

☐ Certificate of Mailing/Transmission signed on _____, and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted, dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

☐ Originally sent response, filed_____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for withdrawal of the abandonment and then to the examiner for prompt action.

Randolph A. Reese
Special Programs Examiner
Group 3600

RAR/js: 9/9/05

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No.

WINSTON & STRAWN LLP
PATENT DEPARTMENT
1700 K STREET, N.W.
WASHINGTON DC 20006

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JAN 18 2007

OFFICE OF PETITIONS

In re Application of	:	
Peter Carhuff	:	
Application No. 10/187,941	:	DECISION ON APPLICATION
Filed: June 28, 2002	:	FOR
Atty Docket No. 88265-7324	:	PATENT TERM ADJUSTMENT

This is a decision on the "PETITION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705" filed December 8, 2006. Applicant petitions for reinstatement of the improperly reduced portion of the patent term adjustment indicated in the above-identified application.

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 five hundred fifty-one (551) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On November 15, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 0 days. On December 8, 2006, applicant timely submitted an application for patent term adjustment (with required fee)[1].

[1] PALM records indicate that the Issue Fee payment was received on December 11, 2006.

A review of the application history confirms that applicant's characterization of the basis for and amounts of the adjustments and reductions of patent term in this application at the time of the mailing of the notice of allowance are correct.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is five hundred fifty-one (551) days.

The $200.00 fee set forth in 37 CFR 1.18(e) has been charged to petitioner's Deposit Account, as authorized. No additional fees are required.

The fee will not be refunded. As stated in the Final Rule[2], 35 U.S.C. 154(b)(3) provides for the Office to establish procedures for the application for and determination of patent term adjustment under 35 U.S.C. 154(b). The Office will provide an initial determination of the patent term adjustment in the notice of allowance. If, however, an applicant wishes to request reconsideration of the initial determination in the notice of allowance, the applicant must file an application for patent term adjustment. 35 U.S.C. 41(d) authorizes the Office to establish a fee to recover the estimated average cost of treating applications for patent term adjustment (as well as a fee for treating a request for reinstatement of patent term adjustment), and the cost of treating an application for patent term adjustment is about the same regardless of whether the Office's initial determination of patent term adjustment indicated in the notice of allowance is correct. In any event, refunding the fee under § 1.18(e) when the application for patent term adjustment is correct would: (1) require the Office to raise the fee set forth in § 1.18(e) (to enable the Office to recover the same aggregate amount); and (2) add further complication to a review process that must take place in a limited period of time.

The application is being forwarded to the Publications Division for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about

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[2] *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 54366 (September 18, 2000).

three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Revised PAIR Screen

PTA Calculations for Application: 10/187941			
Application Filing Date:	06/28/2002	PTO Delay (PTO):	84
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	653
Post-Issue Petitions:	0	Total PTA (days):	551
PTO Delay Adjustment:	1120		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
63	01/16/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		87	
62	01/16/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		13	
61	01/16/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	653		
60	01/16/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		84	
59	01/16/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	651		
48	11/15/2006	MAIL NOTICE OF ALLOWANCE			
47	11/13/2006	ISSUE REVISION COMPLETED			
46	11/13/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
45	11/13/2006	CASE DOCKETED TO EXAMINER IN GAU			
44	10/19/2006	NOTICE OF ALLOWABILITY			
43	10/19/2006	DATE FORWARDED TO EXAMINER			
42	10/05/2006	RESPONSE AFTER NON-FINAL ACTION			
41	07/27/2006	MAIL NON-FINAL REJECTION			
40	07/24/2006	NON-FINAL REJECTION			
39	06/24/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
38	05/24/2006	DATE FORWARDED TO EXAMINER			
37	04/26/2006	RCE- AF PROCESSED			
36	05/24/2006	DATE FORWARDED TO EXAMINER			
35	05/18/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)			
34	05/24/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
33	05/18/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
32	05/16/2006	MAIL ADVISORY ACTION (PTOL - 303)			
31	05/12/2006	ADVISORY ACTION (PTOL-303)			

30	05/04/2006	DATE FORWARDED TO EXAMINER			
29	04/26/2006	AMENDMENT AFTER FINAL REJECTION			
28	03/09/2006	MAIL FINAL REJECTION (PTOL - 326)	84		21
27	03/06/2006	FINAL REJECTION			
26	08/15/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
25	03/07/2006	MAIL NOTICE OF RESCINDED ABANDONMENT			
24	08/15/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	08/15/2005	NEW OR ADDITIONAL DRAWING FILED			
22	01/04/2006	DATE FORWARDED TO EXAMINER			
21	08/15/2005	RESPONSE AFTER NON-FINAL ACTION		653	14
20	08/15/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
19	12/23/2005	NOTICE OF RESCINDED ABANDONMENT IN TCS			
18	12/07/2005	PETITION TO REVIVE APPLICATION - GRANTED			
17	08/15/2005	PETITION ENTERED			
16	05/17/2004	MAIL ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
15	05/14/2004	ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
14	08/01/2003	MAIL NON-FINAL REJECTION			
13	07/28/2003	NON-FINAL REJECTION			
12	07/17/2003	CASE DOCKETED TO EXAMINER IN GAU			
11	05/06/2003	CASE DOCKETED TO EXAMINER IN GAU			
10	08/19/2002	SUBSTITUTE SPECIFICATION FILED			
9	04/08/2003	TRANSFER INQUIRY TO GAU			
8	09/04/2002	APPLICATION DISPATCHED FROM OIPE			
7	08/28/2002	APPLICATION IS NOW COMPLETE			
6	08/19/2002	ADDITIONAL APPLICATION FILING FEES			
5	08/19/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
4	08/19/2002	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
3	08/08/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
2	07/17/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			

1	06/28/2002	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Paper No. 3

BROWDY AND NEIMARK PLLC
624 NINTH STREET, NW
SUITE 300
WASHINGTON, DC 20001-5303

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OCT 17 2002

OFFICE OF PETITIONS

In re Application of :
Chiang Hung Lin :
Application No. 10/187,949 :
Filed: July 3, 2002 :
Attorney Docket No. LIN189 :

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 2600.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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DIW Oct-06

Paper No. 9

FELIX J. D'AMBROSIO
JONES, TULLAR & COOPER, P.C.
EADS STATION
P.O. BOX 2266
ARLINGTON VA 22202

COPY MAILED
OCT 13 2006
OFFICE OF PETITIONS

In re Application of	:	
Takayuki Nagata	:	DECISION ON PETITION
Application No. 10/187,972	:	TO WITHDRAW HOLDING
Filed: 3 July, 2002	:	OF ABANDONMENT
For: JACK TYPE CONNECTOR WITH A SHUTTER, AND PLUG TYPE CONNECTOR	:	

This is a decision on in reference to the papers filed on 7 November, 2003, which are being treated as a request to withdraw the holding of abandonment of the above-identified application.

The Office apologizes for the delay in responding to the present petition and regrets any inconvenience to petitioner.

This application was held abandoned for failure to respond in a timely manner to the non-final Office action mailed on 14 February, 2003, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed 5 November, 2003.

Petitioner asserts that a proper response was timely filed. In support of the petition, petitioner submits a copy of a postcard receipt date-stamped by the USPTO with a date of 16 June, 2003, acknowledging receipt of a response. The postcard identifies the application by applicant's name, application number, filing date, attorney firm name, and invention title. A copy of the Response was included with this petition.

The original correspondence filed was not matched with the file at the time the Notice of Abandonment was mailed and cannot be located. However, M.P.E.P. § 503 states, "[a] post card receipt which itemizes and properly identifies the papers which are being

filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the response was timely filed in the Office but was not matched with the application file.

For the reasons stated above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

As a one month extension of time is required to make the reply filed on 16 June, 2003, a timely response to the Office action mailed on 14 February, 2003,[1] a one (1) month extension of time will be charged to petitioner's deposit account as provided in the paper filed on 28 September, 2006.[2]

The petition is **GRANTED**.

It is noted that the status letter filed on 24 January, 2006, contained a different address than the correspondence address. A courtesy copy of this decision is being forwarded to the address in the status letter. All future correspondence, however, will be mailed solely to the address of record. Petitioner should file a change of correspondence address if necessary.

The application file will be forwarded to the Technology Center's technical support staff for entry of the response to the non-final Office action. Thereafter, the application file will be forwarded to the examiner for action in due course.

---

[1] As 14 June, 2003, fell on a Saturday, the response filed on 16 June, 2003, is considered timely with a one (1) month extension of time.

[2] An authorization to charge all required fees was filed with the application papers on 3 July, 2002. However, petitioner's counsel is no longer an authorized user of that deposit account. Accordingly, the deposit account authorization provided on 28 September, 2006, will be accepted nunc pro tunc.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: Felix D'Ambrosio
Bacon & Thomas, PPLC
625 Slater's Lane
Fourth Floor
Alexandria VA 22314-1176

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SNELL & WILMER L.L.P. (Main)
400 EAST VAN BUREN
ONE ARIZONA CENTER
PHOENIX AZ 85004-2202

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JUN 20 2008

OFFICE OF PETITIONS

In re Application of :
Carlino :
Application No. 10/188,017 : ON PETITION
Filed: July 1, 2002 :
Attorney Docket No. 31542.0900 :
For: COSMETIC CARRIER ATTACHMENT FOR ELECTRONIC COMMUNICATIONS DEVICE

This is a decision on the petition under 37 CFR 1.181, filed March 6, 2008, requesting that the Office withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

This application was held abandoned for failure to respond in a timely manner to the final Office action, mailed July 10, 2007, which set forth an extendable three (3) month period for reply. The Office contended that this application became abandoned on October 11, 2007 for failure to reply to the July 10, 2007 final Office action. A Notice of Abandonment was mailed on January 24, 2008.

Petitioner requests withdrawal of the holding of abandonment based on the assertion that a request for a three month extension of time, an amendment after final, and a Notice of Appeal were timely filed on certificate of mailing date January 10, 2008 and received in the Office on January 22, 2008. The undersigned finds this argument completely convincing, as these documents are present in the application file and Office financial records show that the required three month extension of time fee and the required Notice of Appeal fee were charged on accounting date January 23, 3008. The correspondence at issue contains proper certificates of mailing. Therefore, the three month extension of time, the amendment after final, and the Notice of Appeal were timely filed.

The petition under 37 CFR 1.181 is **granted**, the holding of abandonment is withdrawn, and the January 24, 2008 Notice of Abandonment is **vacated**. No petition fee has been or will be charged in connection with this matter.

The application file will be forwarded to Technology Center A.U. 3728 for consideration of the amendment after final filed on January 22, 2008 (certificate of mailing date January 10, 2008).

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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QUINE INTELLECTUAL PROPERTY LAW GROUP PC
P O BOX 458
ALAMEDA, CA 94501

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NOV 2 5 2002

OFFICE OF PETITIONS

In re Application of :
Alex Hutcheson et al :
Application No. 10/188,020 : DECISION GRANTING
Filed: July 1, 2002 :STATUS UNDER 37 CFR 1.47(a)
Attorney Docket No: 21-000730US :
:

This is in response to the petition under 37 CFR 1.47(a),[1] filed September 30, 2002.

The petition is granted.

Petitioner has shown that the nonsigning inventor has refused to join in the filing of the above-identified application by refusing to accept delivery of a package mailed via certified mail.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the nonsigning inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The power of attorney by assigee filed concurrently with the instant petition has been accepted and made of record in the application file.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-8680.

This application is being forwarded to the Office of Initial Patent Examination for pre-examination processing.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The petition is being treated as a petition under 37 CFR 1.47(a). A petition under 37 CFR 1.47(b) is only appropriate where none of th inventors execute an oath or declaration.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Frank Swenson
26 Ratto Road
Alameda, CA 94502

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NOV 2 5 2002

OFFICE OF PETITIONS

In re Application of
Alex Hutcheson; Christopher Hawk; and Frank Swenson
Application No. 10/188,020
Filed: July 1, 2002
For: NOVEL SYNERGISTIC ANTIMICROBIAL COMPOSITIONS AND METHODS

Dear Mr. Swenson:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-8680. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Quine Intellectual Property Law Group PC
P. O Box 458
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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WEGMAN, HESSLER & VANDERBURG
6055 ROCKSIDE WOODS BOULEVARD
SUITE 200
CLEVELAND, OH 44131

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DEC 4 2003

Office of the Director
Group 3600

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DEC

Office of the
Group 3600

Paper No. 7

In re application of
James P. Ryan
Application No. 10/188,021 : **DECISION ON REQUEST**
Filed: July 1, 2002 : **FOR WITHDRAWAL OF**
For: APPARATUS FOR PROTECTING A STRUCTURAL COLUMN : **ATTORNEY**

This is a decision on the request filed on July 3, 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 as MOOT**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in the above-identified application is not approved as moot because the power of attorney has already been withdrawn as per the Notice to that effect on November 12, 2003. The correspondence address has been changed to the following:

WEGMAN, HESSLER & VANDERBURG
6055 ROCKSIDE WOODS BOULEVARD
SUITE 200
CLEVELAND, OH 44131

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866

KJD/cps: 11/25/03

cc:

Roger D. Emerson, Esq.
Emerson & Skeriotis
14th Floor
One Cascade Plaza
Akron, OH 44308-1381

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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DICKSTEIN SHAPIRO MORIN & OSHINSKY
1177 AVENUE OF THE AMERICAS (6TH AVENUE)
41ST FL.
NEW YORK, NY 10036-2714

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JAN 14 2005

OFFICE OF PETITIONS

In re Application of :
Kiyoyasu Sakurada et al :
Application No. 10/188,023 : ON PETITION
Filed: July 1, 2002 :
Attorney Docket No. M1071.1725/P1725 :

This is a decision on the petition, filed January 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 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 Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2821 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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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P O BOX 14300
WASHINGTON DC 20044-4300

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JUL 13 2004

OFFICE OF PETITIONS

In re Application of :
Juergen Frick et al :
Application No. 10/188,042 : DECISION GRANTING PETITION
Filed: July 3, 2002 : UNDER 37 CFR 313(c)(2)
Attorney Docket No. 144/51048 :

This is a decision on the petition, filed July 12, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 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) 305-8680.

This matter is being referred to Technology Center AU 1725 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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WASHINGTON DC 20044-4300

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JUL 13 2004

OFFICE OF PETITIONS

In re Application of
Juergen Frick et al
Application No. 10/188,042
Filed: July 3, 2002
Attorney Docket No. 144/51048

: DECISION GRANTING PETITION
: UNDER 37 CFR 313(c)(2)

This is a decision on the petition, filed July 12, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 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) 305-8680.

This matter is being referred to Technology Center AU 1725 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/188,044	07/03/2002	Emil Mincsovics	19424	8435

26480 7590 02/23/2005

LAWRENCE E. LAUBSCHER, SR.
LAUBSCHER LAW OFFICES
1160 SPA ROAD
SUITE 2B
ANNAPOLIS, MD 21403

EXAMINER	
DRODGE, JOSEPH W	

ART UNIT	PAPER NUMBER
1723	

DATE MAILED: 02/23/2005

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
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FEB 23 2005

In re Application of	:	
Emil Mincsovics et al.	:	NOTICE OF WITHDRAWAL
Serial No. 10/188,044	:	FROM ISSUE
Filed: July 03, 20002	:	UNDER 37 CFR 1.313(b)
For: APPARATUS AND A METHOD FOR TREATING:		
A SAMPLE BY PLANAR SEPARATION USING	:	
CONTROLLED PRESSURIZED FLOW	:	

The above-identified application is withdrawn from issue after payment of the issue fee due to reopening of prosecution. See 37 CFR 1.313 (b).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquiries should be directed to at Wanda Walker (571) 272-1151.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Lawrence E. Laubscher, Sr.
Laubscher Law Offices
745 South 23rd Street, Suite 300
Arlington, VA 22202

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1233 20TH STREET, N.W.
SUITE 501
WASHINGTON, D.C. 20036

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OFFICE OF PETITIONS

In re Application of :
Takemori Takayama et al :
Application No. 10/188,054 : ON PETITION
Filed: July 3, 2002 :
Attorney Docket No. KOM-152/INO :

This is a decision on the petition under 37 CFR 1.137(b), filed January 21, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed July 29, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on October 30, 2004.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being forwarded to the Publishing Division.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/188,088	07/03/2002	Juan Antonio Camacho-Paredes	220100US30

CONFIRMATION NO.
1633

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT,
P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

Decision Granting Petition under 37 CFR 1.138(c)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(c) that was filed on November 12, 2003, express abandonment to avoid publication of the above-identified application.

The petition is granted.

The express abandonment is recognized and the application has been withdrawn from publication.

A notice of abandonment will be mailed in due course.

Telephone inquiries should be directed to the Office of Patent Publication, the Pre-Grant Publication Division, at 703-605-4284.

Barbara J. Debnam
Pre-Grant Publication Division
Office of Patent Publication

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 13

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of
Juan Camacho-Paredes
Application No.10/188,088
Filed: July 3, 2002
Attorney Docket No. 004192.P053D

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed November 24, 2003 to revive the above-identified application.

The petition to revive under 37 CFR 1.137(a) is **DISMISSED AS MOOT.**

A petition was filed in the above-identified application because petitioner seeks to revive an application where a request for Express Abandonment was filed on November 14, 2003. Petitioner argues the application was abandoned due to clerical error on behalf of Cecelia Davis, a secretary of Oblon, Spivak, McClelland, Maier and Neustadt. Ms. Davis was instructed by Robert Pous to expressly abandon application 10/170,622 and check into the status of the above-identified application. Petitioner argues Ms. Davis inadvertently transposed the captions in preparing the express abandonment and the status request. Since Mr Pous was not available to sign the express abandonment, Attorney James Hamilton signed the express abandonment.

A review of the file, does not show a copy of the Express Abandonment.[1] Nonetheless MPEP 711.01 states a letter of abandonment properly signed becomes effective when an appropriate official of the Office takes action. Action in recognition of the request for express abandonment may take the form of an acknowledgment by the examiner or by the publishing division indicating that the request for Express Abandonment complies with 37 CFR 1.138. There is no indication the Express Abandonment was ever acknowledged by any official.

Accordingly, the application is being forwarded to the Examiner in Technology Center 3700 to continue prosecution of the application.

Telephone inquiries should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant
Petition Attorney
Office of Petitions

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[1]It should however be noted a review of the Revenue Accounting and Management system does show receipt of a petition fee on November 14, 2003.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 15

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

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OFFICE OF PETITIONS

In re Application of	:	VACATED DECISION
Juan Camacho-Paredes	:	AND DECISION
Application No.10/188,088	:	ON PETITION
Filed: July 3, 2002	:	
Attorney Docket No. 004192.P053D	:	

This decision vacates the decision which was originally mailed on March 12, 2004 under 37 CFR 1.137(a), to revive the above-identified application. This is in response to the petitions under 37 CFR 1.137(a) and 1.137(b).

The petition under 37 CFR 1.137(a) is dismissed.

The petition under 37 CFR 1.137(b) is granted.

A petition was filed in the above-identified application because petitioner sought to revive an application where a request for Express Abandonment under 1.138(c) to avoid publication was filed on November 14, 2003. Petitioner argues the application was expressly abandoned due to clerical error on behalf of Cecelia Davis, a secretary of Oblon, Spivak, McClelland, Maier and Neustadt. Ms. Davis was instructed by Robert Pous to expressly abandon application 10/170,622 and check into the status of the above-identified application. Petitioner argues Ms. Davis inadvertently transposed the captions in preparing the express abandonment and the status request. Since Mr. Pous was not available to sign the express abandonment, Attorney James Hamilton signed the express abandonment.

The petition filed under 37 CFR 1.137(a) or (b) on November 24, 2003 was dismissed as moot because it appeared the Express abandonment submitted on November 14, 2003 had not been acted upon by an appropriate official. However, upon further review, the petition under 37 CFR 1.138(c) for express abandonment had been granted by Pre-Grant Publication Division on November 20, 2003, the petition fee had been charged, and the application had been withdrawn from the publication process. Because the petition for express abandonment to avoid publication under 37 CFR 1.138(c) had already been processed, a petition under 37 CFR 1.137(b) is required to revive the application. 37 CFR 1.137(a) is not appropriate in this instance because the error in filing the request for express abandonment was unintentional, not unavoidable.

Accordingly, the petition filed on November 24, 2003 is being treated under 37 CFR 1.137(b). Petitioner has established a clerical error in filing the Request for Express Abandonment under 37 CFR 1.138(c) in the above identified application and promptly sought to rectify the error.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition. See 35 U.S.C. § 41(a)(7). The Office will apply the $110.00 petition to revive fee, previously paid to the fee required for the petition under 37 CFR 1.137(b) ($1,330). The additional $1,220 required to account for the petition fee will be charged to Petitioner's deposit account 15-0030, as authorized.

The requirements for a grantable petition under 37 CFR 1.137(b) have been met. This petition is hereby **Granted**.

Thereafter the application will be forwarded to Technology Center 3700.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petition Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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FLESHNER & KIM
P.O. BOX 221200
CHANTILLY VA 20153

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JAN 31 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Kye Hyuk Ahn :
Application No. 10/188,135 :
Filed: July 3, 2002 :
Attorney Docket No. P-0395 :

This is a decision on the petition, filed January 24, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 22, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2683 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

NXP, B.V.
NXP INTELLECTUAL PROPERTY DEPARTMENT
M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE CA 95131

In re Application of	:	
Van Veldhoven et al.	:	
Application No. 10/188,139	:	ON PETITION
Filed: July 2, 2002	:	
Attorney Docket No. PHNL 010457	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 3, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 28

FISH & RICHARDSON PC
5000 BANK ONE CENTER
1717 MAIN STREET
DALLAS, TX 75201

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JUL 0 1 2004

OFFICE OF PETITIONS

In re Application of
Joseph A. Zupanick et al
Application No. 10/188,141
Filed: July 1, 2002
Attorney Docket No. 17601-008002

: DECISION GRANTING PETITION
: UNDER 37 CFR 313(c)(2)

This is a decision on the petition, filed June 29, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 23, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 3673 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form**must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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#37

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FEB 03 2005

OFFICE OF PETITIONS

In re Application of :
Joseph A. Zupanick et al :
Application No. 10/188,141 : DECISION GRANTING PETITION
Filed: July 1, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 17601-008002 :

This is a decision on the petition, filed January 24, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 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 3673 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

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SNELL & WILMER
400 EAST VAN BUREN
ONE ARIZONA CENTER
PHOENIX, AZ 85004-2202

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DEC 0 8 2006

OFFICE OF PETITIONS

In re Application of :
Kiernan et al. :
Application No. 10/188,178 : DECISION ON PETITION
Filing or 371(c) Date: 07/02/2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 41821.1100 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 2, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt

accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Derek 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 1655 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Christina Tartara Donnell

Christina Tartara Donnell
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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	DRAWINGS	TOT CLAIMS	IND CLAIMS
10/188,178	07/02/2002	1655	657	41821.1100	42	40	4

CONFIRMATION NO. 8787

CORRECTED FILING RECEIPT

20322
SNELL & WILMER
400 EAST VAN BUREN
ONE ARIZONA CENTER
PHOENIX, AZ85004-2202

Date Mailed: 11/16/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Urban A. Kiernan, Gilbert, AZ;
Eric Niederkofler, Glendale, AZ;
Kemmons A. Tubbs, Mesa, AZ;
Dobrin Nedelkov, Tempe, AZ;
Randall W. Nelson, Phoenix, AZ;

Power of Attorney:
Laura Zeman--36078

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/302,640 07/02/2001
and claims benefit of 60/306,957 07/21/2001 *
and is a CIP of 09/808,314 03/14/2001
which is a CON of 09/024,988 02/17/1998 ABN
which is a CON of 08/449,903 05/23/1995 ABN
(*)Data provided by applicant is not consistent with PTO records.

Foreign Applications

If Required, Foreign Filing License Granted: 08/07/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US10/188,178**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

Analysis of proteins from biological fluids using mass spectrometric immunoassay

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 AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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Christopher C. Winslade
McAndrews, Held & Malloy
500 W. Madison Street
Suite 3400
Chicago, IL 60661

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JAN 18 2005

OFFICE OF PETITIONS

In re Application of :
Steven E. Koenck, et al. :
Application No. 10/188,183 : ON PETITION
Filed: July 2, 2002 :
Attorney Docket No. 15993US01 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 21, 2004, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to Technology Center 2800.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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PATRICK D. KELLY
11939 MANCHESTER #403
ST. LOUIS, MO 63131

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JAN 23 2006

OFFICE OF PETITIONS

In re Application of :
Ian A. Ferguson :
Application No. 10/188,184 : ON PETITION
Filed: July 2, 2002 :
Attorney Docket No. IF-BBB-2 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 5, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

The 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) was obtained. Accordingly, the application became abandoned after midnight October 13, 2004.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (1).

With respect to item (1), the record fails to show that petitioner submitted the required reply to the non-final Office action mailed July 13, 2004. Therefore, revival of the above application cannot occur until a response to the non-final Office action has been received.

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

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 05/07/2010

Applicant	: Jin-Meng Ho	: DECISION ON REQUEST FOR
Patent Number	: 7630403	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/188,188	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/02/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **2103** 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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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP/
AT&T Delaware Intellectual Property, Inc.
600 GALLERIA PARKWAY, S.E.
SUITE 1500
ATLANTA, GA 30339-5994

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MAR 14 2008

OFFICE OF PETITIONS

In re Application of
Frank, et al.
Application No. 10/188,209
Filed: July 3, 2002
Attorney Docket No. BS99-222-CON-II

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 January 15, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **dismissed**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The 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). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The issue fee in this case was paid on January 15, 2008. It is conceivable that the application will issue before either the filing or the granting of a renewed petition under 37 C.F.R. §1.78(a)(3). In such case, submission of a certificate of correction and fee of $100.00 will be required as a condition for granting the petition under 37 C.F.R. §1.78(a)(3).

Petitioner must submit a renewed petition under 37 CFR 1.78(a)(3), accompanied by a completed Certificate of Correction (with the $100.00 fee), which includes the benefit claim to the prior-filed nonprovisional applications.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

Any questions concerning this matter may be directed to Petitions Attorney Kenya McLaughlin at (571) 272-3222.

Anthony Knight
Supervisor
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

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP/
AT&T Delaware Intellectual Property, Inc.
600 GALLERIA PARKWAY, S.E.
SUITE 1500
ATLANTA GA 30339-5994

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APR 10 2008

OFFICE OF PETITIONS

In re Application of :
Frank et al. :
Application No. 10/188,209 : DECISION ON PETITIONS
Filed: July 3, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. BS99-222-CON-II :

After further consideration, the decision mailed March 14, 2008 is hereby **VACATED**.

This is a decision on the petition under 37 CFR § 1.78(a)(3), filed January 15, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed application 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 the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR § 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §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.

A corrected Filing Receipt, which includes the priority claim to the prior-filed application, accompanies this decision on petition.

Any questions concerning this matter may be directed to Anthony Knight at (571) 272-3687. 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 The Office Of Data Processing for processing of this application into a patent.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/188,209	07/03/2002	3629	1476	BS99-222-CON-II	49	4

CONFIRMATION NO. 1480

CORRECTED FILING RECEIPT

38823
THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP/
AT&T Delaware Intellectual Property, Inc.
600 GALLERIA PARKWAY, S.E.
SUITE 1500
ATLANTA, GA 30339-5994

Date Mailed: 04/09/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please 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**

Applicant(s)

Scott M. Frank, Dunwoody, GA;
Carol T. Beckham, Marietta, GA;
Martin L. McLendon, Tucker, GA;
Shannon M. Short, Atlanta, GA;
Michael Bishop, Atlanta, GA;

Power of Attorney: The patent practitioners associated with Customer Number 38823

Domestic Priority data as claimed by applicant

This application is a CON of 10/004,497 12/06/2001 ABN
which is a CON of 09/750,012 12/29/2000 ABN
which claims benefit of 60/173,919 12/30/1999
and claims benefit of 60/192,862 03/29/2000

Foreign Applications

If Required, Foreign Filing License Granted: 09/12/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/188,209**

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

SYSTEM AND METHOD FOR DEVELOPING AND IMPLEMENTING INTELLECTUAL PROPERTY MARKETING

Preliminary Class

705

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.

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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

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the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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TECHNOLOGY CENTER 3600

BUTLER, SNOW, O'MARA
STEVENS & CANNADA, PLLC
SUITE 500
6075 POPLAR AVENUE
MEMPHIS, TN 38119

In re application of
Francesco A. Crupi
Application No. 10/188,210 :
Filed: July 02, 2002 :
For: METHOD AND APPARATUS FOR CONTROLLING THE MIXING OF MILLED ASPHALT AGGREGATE WITH REJUVENATING FLUID :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on October 29, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. For approval of such a request the following conditions must be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;
B) There must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a);
C) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided;
D) The applicant or patent owner must have been notified of the withdrawal as provided for in 37 CFR 1.36.

Best Available Copy

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition B) above.

As to condition B), The reason "non payment of fees", is not appropriate since it is not clear the time period since the last bill was paid. A proper reason for withdrawal is enumerated under 37 CFR 10.40 (b)(1)-(4) or (c)(1)-(6) must be provided.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866
Facsimile No.: (703) 605-0586

KJD/slb: 02/02/05

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Edwards Angell Palmer Dodge
P.O. Box 55874
Boston, MA 02205

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APR 19 2010

OFFICE OF PETITIONS

In re Patent No. 7,541,179	:	
Sadelain et al.	:	DECISION UPON REMAND AND
Issue Date: June 2, 2009	:	RECONSIDERATION OF
Application No. 10/188,221	:	PATENT TERM ADJUSTMENT
Filed: July 1, 2002	:	AND NOTICE OF INTENT
Attorney Docket No.64836(51590)	:	TO ISSUE CERTIFICATE OF
Title: HumanGlobin Gene and Use Thereof in Treatment of Hemoglobinopathies	:	CORRECTION

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by six hundred eighty-two (682) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by six hundred and eighty-two (682) days.

Telephone inquiries specific to this matter should be directed to Senior Legal Advisor, Kery A. Fries at (571) 272-7757.

/Kery A. Fries/

Kery A. Fries

Senior Legal Advisor
Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,541,179 B2

DATED : **June 2, 2009** **DRAFT**

INVENTOR(S) : Sadelain 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 431 days

Delete the phrase "by 431 days" and insert – by 682 days--

Day : Monday
Date: 4/19/2010

PALM INTRANET

Time: 09:15:06

PTA Calculations for Application: 10/188221			
Application Filing Date:	07/01/2002	PTO Delay (PTO):	803
Issue Date of Patent:	06/02/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	372
Post-Issue Petitions:	0	Total PTA (days):	682
PTO Delay Adjustment:	251		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
121	04/16/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	251		
115.5	05/13/2009	PTA 36 MONTHS	551		
115	06/02/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
114	04/28/2009	EXPORT TO FINAL DATA CAPTURE			
113	04/27/2009	DISPATCH TO FDC			
112	04/27/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
111	04/24/2009	ISSUE FEE PAYMENT VERIFIED			
110	04/24/2009	ISSUE FEE PAYMENT RECEIVED			
109	03/09/2009	FINISHED INITIAL DATA CAPTURE			
108	02/09/2009	SEQUENCE FORWARDED TO PUBS ON TAPE			
107	01/30/2009	EXPORT TO INITIAL DATA CAPTURE			
105	01/26/2009	MAIL NOTICE OF ALLOWANCE			
104	01/16/2009	ISSUE REVISION COMPLETED			
103	01/16/2009	DOCUMENT VERIFICATION			
102	01/16/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
101	01/16/2009	CASE DOCKETED TO EXAMINER IN GAU			
100	01/15/2009	EXAMINER'S AMENDMENT COMMUNICATION			
99	01/15/2009	NOTICE OF ALLOWABILITY			
98	12/10/2008	DATE FORWARDED TO EXAMINER			
97	12/03/2008	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
96	12/03/2008	NOTICE OF APPEAL FILED		91	94
95	12/03/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			

94	06/03/2008	MAIL FINAL REJECTION (PTOL - 326)			
93	05/28/2008	FINAL REJECTION			
91	03/18/2008	DATE FORWARDED TO EXAMINER			
90	02/29/2008	RESPONSE AFTER NON-FINAL ACTION		30	86
89	02/29/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
88	03/17/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
87	02/26/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
86	10/30/2007	MAIL NON-FINAL REJECTION			
85	10/27/2007	NON-FINAL REJECTION			
84	08/02/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
83	09/12/2007	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
82	09/15/2007	DATE FORWARDED TO EXAMINER			
81	09/12/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
80	09/15/2007	DATE FORWARDED TO EXAMINER			
79	09/12/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
78	09/15/2007	DISPOSAL FOR A RCE / CPA / R129			
77	09/12/2007	NOTICE OF APPEAL FILED		92	66
76	09/12/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
74	09/12/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
73	08/10/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
72	08/02/2007	MISCELLANEOUS INCOMING LETTER			
71	08/02/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
70	08/05/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
69	08/02/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
68	08/25/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
67	08/25/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
66	03/12/2007	MAIL FINAL REJECTION (PTOL - 326)			

65	03/05/2007	FINAL REJECTION			
64	12/08/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
63.7	12/08/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		8	61
63	12/08/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
62	12/18/2006	DATE FORWARDED TO EXAMINER			
61	11/30/2006	RESPONSE AFTER NON-FINAL ACTION		30	56
60	11/30/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
59	10/23/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
58	10/11/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
57	08/03/2006	CORRESPONDENCE ADDRESS CHANGE			
56	07/31/2006	MAIL NON-FINAL REJECTION			
55	07/24/2006	NON-FINAL REJECTION			
54	10/08/2002	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
53.7	10/08/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
53	10/08/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
52	05/15/2006	DATE FORWARDED TO EXAMINER			
51	05/04/2006	RESPONSE AFTER NON-FINAL ACTION		87	45
50	04/04/2006	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
49	04/04/2006	CORRESPONDENCE ADDRESS CHANGE			
48	04/04/2006	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
47	03/13/2006	RECEIPT OF ALL ACKNOWLEDGEMENT LETTERS			
46	02/08/2006	DATE FORWARDED TO EXAMINER			
45.1	02/06/2006	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
45	02/06/2006	RESPONSE AFTER NON-FINAL ACTION		33	42
44	02/06/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
43	10/12/2005	CORRESPONDENCE ADDRESS CHANGE			
42	10/04/2005	MAIL NON-FINAL REJECTION			

41	10/03/2005	NON-FINAL REJECTION			
40	07/20/2005	REQUEST FOR REFUND			
39	07/25/2005	DATE FORWARDED TO EXAMINER			
38	06/30/2005	SUPPLEMENTAL RESPONSE		0	34
37	07/18/2005	CASE DOCKETED TO EXAMINER IN GAU			
36.7	06/30/2005	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
36	06/30/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
35	07/07/2005	DATE FORWARDED TO EXAMINER			
34	06/30/2005	RESPONSE AFTER NON-FINAL ACTION			
33	07/05/2005	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
32	06/28/2005	CASE DOCKETED TO EXAMINER IN GAU			
31	03/31/2005	MAIL NON-FINAL REJECTION	5		27
30	03/07/2005	NON-FINAL REJECTION			
29	01/11/2005	CASE DOCKETED TO EXAMINER IN GAU			
28	12/29/2004	DATE FORWARDED TO EXAMINER			
27	11/26/2004	RESPONSE AFTER NON-FINAL ACTION		1	22
26	11/26/2004	REFERENCE CAPTURE ON IDS			
25.7	11/26/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
25	11/26/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	11/26/2004	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
23	11/26/2004	WORKFLOW INCOMING AMENDMENT IFW			
22	08/25/2004	MAIL NON-FINAL REJECTION			
21	08/23/2004	NON-FINAL REJECTION			
20	06/21/2004	DATE FORWARDED TO EXAMINER			
19	06/01/2004	RESPONSE TO ELECTION / RESTRICTION FILED			
18	06/01/2004	WORKFLOW INCOMING AMENDMENT IFW			
17	05/05/2004	MAIL RESTRICTION REQUIREMENT	247		-1
16	05/03/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
15.7	11/17/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	11/17/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	09/08/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			

13	07/15/2003	CASE DOCKETED TO EXAMINER IN GAU			
12	10/28/2002	APPLICATION DISPATCHED FROM OIPE			
11	10/24/2002	APPLICATION IS NOW COMPLETE			
10	10/08/2002	ADDITIONAL APPLICATION FILING FEES			
8	10/08/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
7	09/24/2002	LETTER TO APPLICANT - NO GOVERNMENT INTEREST / PATENT TO ISSUE			
6	09/13/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
5	09/06/2002	REFERRED BY L&R FOR THIRD-LEVEL SECURITY REVIEW. AGENCY REFERRAL LETTER GENERATED			
4	09/06/2002	CLEARED BY L&R (LARS)			
3	09/05/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	09/04/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	07/01/2002	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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WALTER A. HACKLER
2372 S.E. BRISTOL, SUITE B
NEWPORT BEACH CA 92660-0755

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OFFICE OF PETITIONS

In re Application of	:	
Rudder et al.	:	
Application No. 10/188,236	:	ON PETITION
Filed: July 2, 2002	:	
Attorney Docket No. 3261	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 14, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 3600 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Chase
Petitions Examiner
Office of Petitions

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NEWPORT BEACH CA 92660-0755

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AUG 0 3 2006

OFFICE OF PETITIONS

In re Application of :
Rudder et al. :
Application No. 10/188,236 : ON PETITION
Filed: July 2, 2002 :
Attorney Docket No. 3261 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 14, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 3600 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Chase
Petitions Examiner
Office of Petitions

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ALAN R. LOUDERMILK
LOUDERMILK & ASSOCIATES
P.O. BOX 3607
LOS ALTOS, CA 94024-0607

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OCT 27 2008

In re Application of	:	
William J. DELVEAUX, et al	:	
Application No. 10/188,244	:	DECISION ON PETITION
Filed: July 1, 2002	:	
Attorney Docket No. VN1-021	:	

This is a decision on the petition, filed May 12, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to reply to the /non-final Office action mailed January 19, 2007, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on July 25, 2007.

Petitioner asserts that the Office action dated January 19, 2007 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records 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 must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition fails to satisfy all of the above-stated requirements.

Accordingly, absent the required evidence to establish non receipt of the Office action of January 19, 2007, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1540 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).

The petitions filed under 37 CFR 1.137(a) and 37 CFR 1.137(b) will not be considered at this time as they must be contained in a separate paper to avoid confusion. See 37 CFR 1.4(c),

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

Thurman Page
Petitions Examiner
Office of Petitions

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P.O. Box 1450
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LOUDERMILK & ASSOCIATES
P.O. BOX 3607
LOS ALTOS, CA 94024-0607

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JAN 2 1 2009

In re Application of	:	
William J. DELVEAUX, et al	:	
Application No. 10/188,244	:	DECISION ON PETITION
Filed: July 1, 2002	:	
Attorney Docket No. VN1-021	:	

This is a decision on the renewed petition, filed December 18, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the non final Office action mailed January 19, 2007, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on July 25, 2007.

Petitioner asserts that the Office action dated January 19, 2007, was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records 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 must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 2419 for re-mailing the Office action of January 19, 2007. The period for reply will run from the mailing date of the Office action.

Thurman Page
Petitions Examiner
Office of Petitions

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NOVOZYMES NORTH AMERICA, INC.
500 FIFTH AVENUE
SUITE 1600
NEW YORK NY 10110

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OFFICE OF PETITIONS

In re Application of :
Hui Xu et al :
Application No. 10/188,245 : ON PETITION
Filed: July 1, 2002 :
Attorney Docket No. 10198.200-US :

This is a decision on the petition under 37 CFR 1.137(b), filed October 26, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing the Appeal Brief under 37 CFR 41.37(a)(1), accompanied by the fee set forth in 37 CFR 41.20(b)(2), runs from the date of this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 1751.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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Paper No.

JENKENS & GILCHRIST, P.C.
225 WEST WASHINGTON
SUITE 2600
CHICAGO IL 60606

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OCT 0 4 2006
OFFICE OF PETITIONS

In re Application of :
Handa et al. : DECISION ON APPLICATION
Application No. 10/188,263 : FOR
Filed: July 2, 2002 : PATENT TERM ADJUSTMENT
Atty Docket No.47099-00119USPT:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT" filed July 5, 2006. Applicants request that the determination of patent term adjustment under 35 U.S.C. 154(b)(3)(B)(i) be corrected from one hundred twenty-seven (127) days to two hundred seventy-seven (277) days.

The request for reconsideration of patent term adjustment indicated in the patent is **DISMISSED**.

On May 16, 2006, the application matured into U.S. Patent No. 7,045,556, with a revised patent term adjustment of 127 days. On July 5, 2006, patentees timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 277 days. Patentees assert entitlement to 316 days of adjustment for Office delay in issuing the patent after payment of the issue fee and satisfaction of all outstanding requirements, pursuant to § 1.703(a)(6). Patentees further assert that the period of reduction associated with their filing of an amendment under 1.312 is 39 days, not 120 days, considering the overlap in this period with the four month period after the issue fee was paid.

Patentees are incorrect. The period of adjustment pursuant to 1.703(a)(6) is correctly entered as 313 days, counting the number of days in the period beginning on the day after the date that is four months after the date the issue fee was paid and all outstanding requirements were satisfied, July 7, 2005 and ending on the date a patent was issued, May 16, 2006.

Patentees erred in using the date of the certificate of mailing to calculate the period of adjustment pursuant to 1.703(a)(6). 37 CFR 1.703(f) provides that the date indicated on any certificate of mailing or transmission under 37 CFR 1.8 shall not be taken into account in this calculation. The date indicated on a certificate of mailing is used only to determine whether the correspondence is timely (including whether any extension of the time and fee are required) so as to avoid abandonment of the application or termination or dismissal of proceedings. The actual date of receipt of the correspondence in the Office is used for all other purposes. See 37 CFR 1.8(a). Thus, while the date indicated on any certificate of mailing or transmission under 37 CFR 1.8 will continue to be taken into account in determining timeliness, the date of filing (37 CFR 1.6) will be the date used in a patent term adjustment calculation. Applicant may wish to consider the use of the "Express Mail Post Office to Addressee " service of the United States Postal Service (37 CFR 1.10) or facsimile transmission (37 CFR 1.6(d)) for replies to be accorded the earliest possible filing date for patent term adjustment calculations. Alternatively, applicant may choose to mail correspondence with sufficient time to ensure that the correspondence is received in the Office (and stamped with a date of receipt) before the expiration of the three-month period. See MPEP 2731.

Patentees are also incorrect with respect to what they term as the "negative adjustment." The period of reduction of 120 days for the filing of a 1.312 amendment after the mailing of the notice of allowance is correct. This period is not subject to further reduction based on any period of overlap. Section 1.704(c) provides that circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping. This provision applies to the extent that periods of reduction overlap with

each other. Patentees improperly apply this provision to an overlap in a period of adjustment and in a period of reduction.

Thus, it is concluded that the patent term adjustment of one hundred twenty-seven (127) days indicated in the patent is correct.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GEORGE R. PETTIT
CONNOLLY BOVE LODGE & HUTZ LLP
SUITE 800
1990 M STREET, N.W.
WASHIGNTON, DC 20036-3425

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OFFICE OF PETITIONS

In re Application of	:	
Ishii et al.	:	
Application No. 10/188,334	:	ON PETITION
Filed: July 3, 2002	:	
Attorney Docket No. 20665-025-US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 23, 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 Replacement Drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

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Paper No. 6

Donald R. Greene
PO Box 12995
Scottsdale, AZ 85267-2995

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FEB 20 2004

OFFICE OF PETITIONS

In re Application of
M. Zafar A. Munshi
Application No. 10/188,339
Filed: July 2, 2002
Attorney Docket No. LPT/002CNT2

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 6, 2004, to revive the above-identified application.

The petition is Granted.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the Notice to File Missing Parts of Application mailed July 31, 2002, which set a period for reply of (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on September 31, 2002.

Telephone inquiries should be directed to the undersigned at (703) 308-6911.

The application is being forwarded to the Office of Initial Patent Examination Division for further processing.

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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REED SMITH, LLP
ATTN: PATENT RECORDS DEPARTMENT
599 LEXINGTON AVENUE, 29TH FLOOR
NEW YORK NY 10022-7650

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AUG 17 2005

OFFICE OF PETITIONS

In re Application of :
Henry M. Spotnitz :
Application No. 10/188,344 : ON PETITION
Filed: July 1, 2002 :
Attorney Docket No. 501038.20511 (20076.43) :

This is a decision on the petition under 37 CFR 1.137(b), filed May 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** 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 above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed October 14, 2004, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). No amendment *prima facie* placing the application in condition for allowance or Notice of Appeal (and appeal fee) was timely filed, one month extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 15, 2005.

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: (703) 872-9306
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Advisory Action

cc:
WOLF BLOCK LLP
10TH FLOOR
250 PARK AVENUE
NEW YORK, NEW YORK 10177

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P.O. Box 1450
Alexandria, VA 22313-1450
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WOLF, BLOCK, SHORR AND
SOLIS-COHEN LLP
250 PARK AVENUE
10TH FLOOR
NEW YORK, NY 10177

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FEB 15 2006

OFFICE OF PETITIONS

In re Application of :
Henry M. Spotnitz :
Application No. 10/188,344 : ON PETITION
Filed: July 1, 2002 :
Attorney Docket No. COL221-227907 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed September 19, 2005, to revive the above-identified application.

The petition is again **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 above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed October 14, 2004, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). No amendment *prima facie* placing the application in condition for allowance or Notice of Appeal (and appeal fee) was timely filed. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 15, 2005.

Petitioner should be aware that the amendment filed with the petition on May 31, 2005, did not place the application in condition for allowance. Petitioner was supplied with an attached Advisory Action in the Office letter mailed August 17, 2005, to reference the above matter.

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: (703) 872-9306
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Copy of Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/188,344	Applicant(s) SPOTNITZ, HENRY M.
	Examiner Michael Thaler	Art Unit 3731

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 31 May 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____ 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): claims 16, 17 and 19 under 35 USC 112, second paragraph.
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: 15-25.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

Michael Thaler
Primary Examiner
Art Unit: 3731

PAGE 6/18 * RCVD AT 9/19/2005 1:33:48 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/0 * DNIS:8729306 * CSID:212+297+2699 * DURATION (mm-ss):04-58

Continuation Sheet (PTOL-303) **Application No.**

Continuation of 11. does NOT place the application in condition for allowance because: the tip of the Bell cutting means 22 and the ends of the supporing guides 16, 18 create a tripod arrangement, as claimed, since members 22, 16 and 18 form 3 legs. Dictionary.com defines "tripod" as "a three legged object". All three legs of a tripod arrangement, by definition, do not have to be of equal length. Thus, even though the legs 22, 16 and 18 are not of equal length, their ends form a tripod arrangement.

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10TH FLOOR
NEW YORK NY 10177

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SEP 12 2006

OFFICE OF PETITIONS

In re Application of :
Henry M. Spotnitz :
Application No. 10/188,344 : DECISION GRANTING PETITION
Filed: July 1, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. COL221-227907 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed April 17, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an amendment (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection of October 14, 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 3731.

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
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SCHWEGMAN, LUNDBERG & WOESSNER/SAP
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 04/20/2010

Applicant	: Andreas Hauser	: DECISION ON REQUEST FOR
Patent Number	: 7607137	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/188,352	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/01/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1009** 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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MCGINN & GIBB, PLLC
8321 OLD COURTHOUSE ROAD
SUITE 200
VIENNA, VA 22182-3817

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OCT 0 7 2004

OFFICE OF PETITIONS

In re Application of :
Yoshihisa Miura, et al. :
Application No. 10/188,360 : ON PETITION
Filed: July 3, 2002 :
Attorney Docket No. K06-146757M/TBS :

This is a decision on the petition, filed October 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 July 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 relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being referred to Technology Center AU 3681 for further processing of the request for continued examination under 37 CFR 1.114, including consideration of the petition under 37 CFR 1.48(a) filed October 4, 2004.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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MORRISON & FOERSTER
1650 TYSONS BOULEVARD
SUITE 300
MCLEAN, VA 22102-3915

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JAN 27 2005

OFFICE OF PETITIONS

In re Patent No. 6,737,678 :
Issue Date: May 18, 2004 :
Application No. 10/188,369 : ON PETITION
Filed: July 3, 2002 :
Attorney Docket No. 514242000100 :

This is a decision on petition filed December 9, 2004, which is being treated as a petition under 37 CFR 3.81(b)[1] to accept the correction of the assignee on the front page of the above-identified patent.

The petition is granted.

Telephone inquiries concerning this matter may be directed to Wan Laymon at (571) 272-3220. 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 a Certificate of Correction to **Sharp Kabushiki Kaisha.**

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] *See* Official Gazette of June 22, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BANNER & WITCOFF
1001 G STREET, NW
ELEVENTH FLOOR
WASHINGTON DC 20001

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OCT 2 0 2006

OFFICE OF PETITIONS

In re Application of
Hui Tian et al.
Application No. 10/188,405
Filed: July 1, 2002
Attorney Docket No: 018781-008410US

ON PETITION

This is a decision on the petition filed August 15, 2006, under 37 CFR 1.181, to withdraw the holding of abandonment.

The petition to withdraw the holding of abandonment is **GRANTED**.

The application was held abandoned on April 12, 2006, for failure to file a timely response to the non-Final Office Action mailed January 11, 2006, which set a three month period for reply. Accordingly, a Notice of Abandonment was mailed on August 3, 2006.

Petitioner asserts that a response to the non-Final Office Action was timely filed on April 11, 2006 and submits as proof, a copy of the response and the postcard receipt date-stamped on April 11, 2006 by the USPTO.

A review of the file reveals that the response is of record however, the response was filed with an incorrect serial number.

While, the requirement for filing papers with the USPTO is that every paper bear an appropriate application no. or identifier, other identifiable information was found to be on the papers filed as the response and the response was matched with the proper file on August 19, 2006. In view thereof, the response was timely filed and the Notice of Abandonment mailed August 3, 2006 is hereby withdrawn. No petition fee is due and none has been charged.

This matter is being referred to Technology Center 1646 for treatment of the response filed April 11, 2006.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Paper No. 8

Rolf B. Waage, II
1233 E. Marigold Lane
Tempe, AZ 85281

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NOV 2 6 2003

OFFICE OF PETITIONS

In re Application of :
Rolf B. Waage, II :
Application No. 10/188,411 :
Filed: June 26, 2002 :
Attorney Docket No. N/A :

ON PETITION

This is a decision on the petition filed October 6, 2003, under 37 CFR 1.137(a), which is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181.

The petition is **GRANTED.**

Applicant was not properly notified that the drawings submitted on filing did not match the specification. A "Notice of Allowance and Issue Fee Due" and a "Notice of Allowability" were mailed to applicant on September 26, 2002. In reply, applicant submitted the issue fee and a second set of drawings on December 18, 2002. These drawings differ from the first set in that the figures are identified differently. Nevertheless, neither set of drawings matches the specification. In view thereof, the application file will be remanded to the Examiner to withdraw the application from issue under the provisions of 37 CFR 1.313(a). Thereafter, the Examiner will provide notification to the applicant of the deficiencies in the drawings.

Accordingly, the petition fee of $55 is unnecessary. Petitioner may request a refund of the $55 petition fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany such a request.

The application file is being forwarded to Technology Center 2800.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application	:	
Minerath, et al.	:	
Application No. 10/188,416	:	DECISION ON APPLICATION
Filed: July 2, 2002	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. KCC 4881	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR §1.705", filed July 25, 2005. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from one hundred seventy (170) days to one hundred seventy-nine (179) days.

The application for patent term adjustment is **DISMISSED**.

On May 16, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is one hundred seventy (170) days. On July 25, 2005, Applicants timely[1] submitted an application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is one hundred seventy-nine (179) days.

[1] Applicants filed the instant application for patent term adjustment together with the payment of the issue fee.

Applicants specifically state that the patent issuing from the application is not subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of one hundred seventy (170) days based on an adjustment for PTO delay of two hundred sixty-seven (267) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by applicants' delay of three (3) days pursuant to 35 U.S.C. 154(b)(2)(C)(i) and 37 C.F.R. § 1.704(c)(8) and ninety-four (94) days pursuant to 35 U.S.C. 154(b)(2)(C)(i) and 37 C.F.R. § 1.704(b). The PTO delay of two hundred sixty-seven (267) days has been reviewed and found to be correct. The adjustments of three (3) and ninety-four (94) days are at issue.

The adjustment of ninety-four (94) days has been reviewed and found to be correct. The record reveals that applicants filed a response to a August 22, 2002 Notice to File Missing Parts on February 24, 2003. It is true that the February 24, 2003 response contained a certificate of mailing dated February 18, 2003. However, under 37 C.F.R. § 1.703(f), "the date indicated on any certificate of mailing or transmission shall not be taken into account" in the PTA calculation. See also Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule, 1239 OG 14 (Oct. 3 2000). Accordingly, the applicant delay of ninety-four (94) days for the filing of the response on February 24, 2003 was proper.

With respect to the three (3) days of applicant delay assessed, applicants were properly assessed that delay as a supplemental reply pursuant to 37 C.F.R. § 1.704(c)(8). A non-final Office action was mailed on February 3, 2005, setting an extendable period for reply of one (1) month. Applicants filed a response on March 14, 2005. Three days later, Applicants filed an IDS. The IDS did not contain the statement set forth in 37 C.F.R. 1.704(d), and accordingly, was considered a failure to engage under 37 C.F.R. § 1.704(c)(8).

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **one hundred seventy (170) days.**

The $200.00 fee set forth in 37 C.F.R. § 1.18(e) has been charged to Deposit Account No. 19-1345, as authorized. Applicants' request for a refund of the fee is denied.[2]

As the record does not indicate that Applicants were charged the fee for the one month extension of time to timely respond to the February 3, 2005 Office action, that $120.00 fee has also now been charged to Applicants' deposit account, as authorized in the March 14, 2005 response.

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[2] See Comment 1 in Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule, 1239 OG 14, 65 Fed. Reg. 54366 (Oct. 3 2000) (stating that the fee set forth in 37 C.F.R. 1.18(e) is charged to allow the Office to recover the estimated average cost of treating applications for patent term adjustment, and is not refundable even in the event of Office error).

The application file is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

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411 E. WISCONSIN AVENUE
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MILWAUKEE WI 53202-4497

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JUN 27 2005

OFFICE OF PETITIONS

In re Application of
Carlos De La Huerga
Application No. 10/188,420
Filed: July 2, 2002
Atty Docket No. 250591.90414

ON PETITION

This is a decision on the petition filed May 27, 2005 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 May 3, 2005 for failure to timely pay the issue fee on or before Ma7 2, 2005. This petition and this decision precede the mailing of the Notice of Abandonment.

The payment of the issue fee, publication fee and petition fee, in accordance with 37 CFR 1.18, is acknowledged. 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

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(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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OFFICE OF PETITIONS

In re Patent No. 7,107,281
Issue Date: September 12, 2006
Application No. 10/188,420
Filed: July 2, 2002
Attorney Docket No.: 250591.90414

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**.

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 undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

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AUG 23 2005

OFFICE OF PETITIONS

In re Application of :
Nakamura et al. :
Application No. 10/188,423 :
Filed: July 2, 2002 : ON PETITION
For: MEDIA READER FOR A REMOVABLE :
DIGITAL STORAGE MEDIUM :

This is a decision on the Request Under 37 CFR 3.81(b) to Issue Patent in Name of Assignee, filed March 18, 2004. The delay in treating this petition is regretted.

The Petition is **granted**.

The requested data will be printed on the patent if this can be accomplished without substantial disruption to the issue process. However, if the printing of the patent has progressed to the point where the requested data cannot be included in the printed patent, Petitioner may request a Certificate of Correction under 37 CFR 1.322.

The application is being referred to the Publishing Division for processing into a patent.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Petitions Attorney
Office of Petitions

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MAIL

APR 1 3 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Tarek N. Fahmi
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 Wilshire Boulevard, Seventh Floor
Los Angeles, CA 90025

In re Application of:
Scott E. Sikora
Application No. 10/188,432
Filed: July 03, 2002
For: METHOD AND APPARATUS FOR ALLOCATING MIXED TRANSACTION TYPE MESSAGES TO RESOURCES VIA AN INTERGRATED QUEUING MECHANISM

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed November 01, 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

cc: Andre L. Marais
Schwegman, Lundberg, Woessner & Kluth, P.A.
P.O. Box 2938
Minneapolis, MN 55402

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Paper No.

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KLUTH, P.A.
P.O. Box 2938
Minneapolis, MN 55402

MAILED

MAY 17 2006

TECHNOLOGY CENTER 2100

In re Application of:
Scott E. Sikora
Application No. 10/188,432
Filed: July 3, 2002
For: METHOD AND APPARATUS TO QUEUE A PLURALITY OF TRANSACTION MESSAGES

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed April 20, 2006.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. ∋ 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. ∋ 402.06. 37 C.F.R. ∋ 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed April 20, 2006 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

for Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
(571) 272-3613

cc: WALSH & KATZ, LTD.
120 South Riverside Plaza
22nd Floor
Chicago, IL 60606

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)
6653718	2003-11-25	10188433	2002-07-03	H0001840 DIV (4780)

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	/Sandra P. Thompson/	Date (YYYY-MM-DD)	2008-01-24
Name	Sandra P. Thompson	Registration Number	46264

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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In re Patent No. 6653718
Issue Date: November 25,2003
Application No. 10188433
Filed: July 3,2002
Attorney Docket No. H0001840 DIV (4780)

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed January 28,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 28,2008 . 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.